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The Commonwealth of Massachusetts

SEVENTH ANNUAL REPORT

OF THE

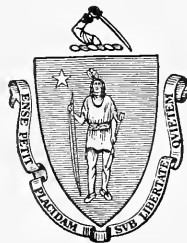
PUBLIC SERVICE COMMISSION

FOR THE

ELEVEN MONTHS ENDED NOVEMBER 30, 1919

Submitted by the Commission of the Department of Public
Utilities under the Provisions of Chapter 350 of the
General Acts of the Year 1919

JANUARY, 1920



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The Commonwealth of Massachusetts

PUBLIC SERVICE COMMISSION.

FREDERICK J. MACLEOD, Cambridge, *Chairman*.
EVERETT E. STONE, Springfield.
HENRY C. ATTWILL, Lynn.

ANDREW A. HIGHLANDS, Brookline, *Secretary*.
CHARLES E. MANN, Malden, *Executive Secretary*.
ALLAN BROOKS, Harvard, *Assistant Secretary*.

ACCOUNTING DEPARTMENT.

JUSTIN W. LESTER, Boston, *Chief Accountant*.
EDWIN H. FENNO, Needham, *Assistant Accountant*.
ERNEST W. WRIGHT, Boston, *Assistant Accountant*.

RATE AND TARIFF DEPARTMENT.

C. PETER CLARK, Newton Center, *Chief of Department*.

ENGINEERING DEPARTMENT.

HENRY W. HAYES, Arlington, *Engineer*.
MINOR S. JAMESON, Wellesley, *Assistant Engineer*.
LEWIS E. MOORE, Newtonville, *Engineer of Bridges and Signals*.
WILLIAM J. KEEFE, Boston, *Assistant Engineer of Signals*.

INSPECTION DEPARTMENT.

HENRY W. SEWARD, Winthrop, *Acting Chief of Department*.

Inspectors.

LEWELLYN H. McLAIN, Melrose.	ARTHUR W. HODGES, Brockton.
JOHN H. PARANT, Worcester.	CHARLES E. MONTGOMERY, Springfield.
JAMES E. RICH, Lynn.	TIMOTHY A. CONNOR, Brookline.
MICHAEL J. SCULLY, Boston.	THOMAS LAFFEY, Boston.
PHILIP SCOTT, Billerica.	

Assistant Inspectors.

TIMOTHY J. LYNCH, Boston.	THOMAS W. WHITCHER, Boston.
HEMAN M. ALDRICH, Northampton.	

TELEPHONE AND TELEGRAPH DEPARTMENT.

WILLIAM H. O'BRIEN, Boston, *Chief of Department*.
JAMES M. CUSHING, Boston, *Telephone Inspector*.
MICHAEL J. CONLEY, Boston, *Telephone Inspector*.
TIMOTHY F. DESMOND, Cambridge, *Telephone Inspector*.

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The Commonwealth of Massachusetts

*To the Honorable Senate and House of Representatives in General Court
assembled.*

We respectfully submit the seventh annual report of the
Public Service Commission: —

COMMISSIONERS' REPORT.

Pursuant to the provisions of chapter 350 of the General Acts of the year 1919, the Commission of the Department of Public Utilities respectfully submits the seventh annual report of the Public Service Commission. The work of the latter commission ended with the thirtieth day of November, 1919. The report contains the material which would have been included in the report if made by the Public Service Commission.

Joseph B. Eastman, who had been a member of the Public Service Commission since January 25, 1915, resigned on February 15, 1919, to accept an appointment as a member of the Interstate Commerce Commission. Henry C. Attwill was appointed to the vacancy caused by Mr. Eastman's resignation, and assumed the duties of the office on August 13, 1919. By the provisions of said chapter 350 of the Acts of 1919 all the rights, powers, duties and obligations of the Public Service Commission and the Board of Gas and Electric Light Commissioners on December 1, 1919, were transferred to the Department of Public Utilities.

On October 4, 1919, George W. Bishop, a member of the Board of Railroad Commissioners from 1895 to 1913 and of the Public Service Commission from July 1, 1913, to July 1, 1914, and thereafter serving as Chief of the Inspection Department of the Public Service Commission, was retired, having reached the age of seventy years. Henry W. Seward was appointed acting chief of the department on October 18, 1919.

A table is herewith presented, similar to the tables contained in the last three annual reports, indicating the volume of work requiring the attention of the Public Service Commission during the year.

		<i>Petitions.</i>	
CLASS.		1918.	1919.
Railroad,	. . . . .	60	48
Street railway,	. . . . .	178	120
Telephone and telegraph,	. . . . .	5	—
Miscellaneous,	. . . . .	1	2
		— 244 —	170
		<i>Investigations.</i>	
Railroad,	. . . . .	2	1
Street railway,	. . . . .	3	1
Telephone and telegraph,	. . . . .	—	—
		— 5 —	2
		<i>Complaints.</i>	
Railroad,	. . . . .	153	151
Street railway,	. . . . .	210	111
Telephone and telegraph,	. . . . .	993	914
Miscellaneous,	. . . . .	12	7
		— 1,368 —	1,183
		<i>Applications.</i>	
Railroad,	. . . . .	97	47
Street railway,	. . . . .	128	59
Telephone and telegraph,	. . . . .	7	3
Miscellaneous,	. . . . .	12	11
		— 244 —	120
		1,861	1,475

Respectfully submitted,

COMMISSION OF THE DEPARTMENT OF
PUBLIC UTILITIES.

HENRY C. ATTWILL, *Chairman*,
EVERETT E. STONE,
ALONZO R. WEED,
DAVID A. ELLIS,
HENRY G. WELLS,

Commissioners.

DEPARTMENT REPORTS.

RATE AND TARIFF DEPARTMENT.

The changes in tariff rates during the year are fully explained below, and although 1,190 tariffs have been received and entered in the files, there are no such radical changes as were reported last year.

The most important freight increases will not take effect until the close of this year, through tariffs which are published to become effective on December 31, upon the so-called "Anderson" basis. This basis, authorized by the Interstate Commerce Commission for all New England roads, on April 16, 1918, was made effective upon the New York, New Haven and Hartford Railroad on June 25, 1918, and is the basis of new tariffs becoming effective December 31, 1919, on the Boston and Albany and Boston and Maine railroads. The coming year will see substantially all the railroads of Massachusetts operating under uniform tariffs.

PASSENGER FARES.

There have been few important changes in passenger fares during the year, except the discontinuance of five and twenty-five ride tickets between points within fifteen miles of Boston, on the Boston and Albany, the Boston and Maine, and the New York, New Haven and Hartford railroads.

These forms of tickets were introduced before the twelve ride tickets were established, under the direction of the Legislature in 1908. An examination of the situation by the Railroad Administration disclosed the fact that the twenty-five ride tickets were not issued from all stations; that the prices for the same distance on different lines varied, and was in some cases less and in others more than the twelve ride tickets, and as the transportation covered was between points already

provided with the twelve ride ticket, they appeared unnecessary and were discontinued.

A number of points within the fifteen mile zone on the New York, New Haven and Hartford Railroad have had five ride tickets which in some cases were higher than the regular twelve ride basis, but in the shorter distances were materially lower than on the other roads for corresponding distances. To avoid this inequality and discrimination, the five ride tickets within fifteen miles of Boston have been discontinued and twelve ride tickets supplied at the rates prevailing on the other roads for similar distances.

There have been 166 steam passenger tariffs entered during the year.

FREIGHT RATES.

There have been no blanket increases during the year, but much work has been done in the tariff departments of all the standard roads. Systematic study appears to have been made of commodity rates, which favored certain industries or localities. In cases where these have ceased to be used, where the volume of business has decreased or where the commercial necessity has not been apparent, such rates have generally been discontinued, leaving local class rates to govern.

The Railroad Administration has assumed complete control of rates on the lines taken over by the government, both as to intrastate and interstate business, and in accordance with its policy has ignored orders issued by state commissions, in which action it has been supported by a recent decision of the United States Supreme Court. As a result, aggrieved shippers failing to secure relief by petition at the hands of the Railroad Administration, can at present only appeal to the Interstate Commerce Commission under the provisions of section 10 of the Federal Control Act. The assistance of this commission has been asked at Washington on appeals for reduction in rates on both coal and fuel oil. Papers are now being prepared at the expense of a number of the larger manufacturers, not only in Massachusetts, but from the eastern part of New England, to present this case fully to the Interstate Commerce Commission, as favorable action by the Railroad Administration has already been denied. It is

claimed that because of two tariff complications, New England is being overcharged about \$2,500,000 a year on rail-water-and-rail coal and that a further increase, which is generally expected before long, will not only continue this injustice, but, if made by the usual percentage method, will compound the present overcharge.

In the last report of this commission, page lii, mention was made of a possible substitution of the Western Freight Classification for the Official Freight Classification, which has been in use in western territory for about thirty years. Fortunately, the objections presented were effective, and a new edition, which will be known as the Consolidated Freight Classification, has been prepared after months of study and many hearings. The Consolidated Classification will show in parallel columns the ratings under the revised Official, Western and Southern Classifications instead of enforcing the Western Classification arbitrarily. Every change in classification, and to some extent, rates, means a disturbance of industrial relations and conditions, but how serious the proposed changes will prove, cannot be absolutely determined until the new classification and rates are actually applied.

Early in the year, the Railroad Administration asked for an expression by the commission on the probable result of adopting a table of rates which was submitted. An exhaustive study disclosed the fact that if the present revenue is to be retained from hauls within 100 miles, with longer distances figured on the rate of increase suggested by the Railroad Administration table, rates to points as far away as Chicago would prove prohibitive. While New England manufacturers might meet changed conditions by moving their establishments into the west and south, to be nearer the source of raw supply and the markets for finished products, the absolute necessity for western food supply would present a most serious problem to New England.

In the reply, attention was called to the so-called Central Freight Association scale of rates at present in effect and covering territory between Chicago and St. Louis in the west and Buffalo and Pittsburg in the east. The scale promulgated in I. C. C. — C. F. A. "Class Scale Case I. & S. No. 965"

in that territory was in mind when the so-called Anderson scale, I. C. C. No. 9953, was decided upon for the New England territory, so that similar rates exist between the Mississippi River and Buffalo and from the Hudson River to the coast of southern New England, and will also become effective on the lines of the Boston and Albany and Boston and Maine railroads with the new year, the necessary tariffs having recently been published.

As the local business within both of these territories is covered by a similar scale of distance rates, it would appear unfortunate to disturb conditions unnecessarily by the use of an entirely different basis. While the increases due to distance are figured by stated amounts for blocks of designated lengths, an analytical study discloses the fact that the underlying principle followed is in an approximate way the increase of a parabolic curve, giving a suggestion which indicates consistent rates for distances beyond the range of tables published in either the C. F. A. or New England decisions, and would indicate a rate between the Atlantic Coast and Chicago which would apparently give the added revenue desired by the Railroad Administration, without prohibiting the movement by excessive freight charges.

There have been 857 new freight tariffs entered during the year.

STREET RAILWAYS.

The changes in trolley tariffs during the year have been very frequent. The general increase in labor and material has seriously embarrassed the roads, which have endeavored to increase their revenue to meet expenses.

Quite generally, the result of an increase in fares has been a decrease in business, so that usually results have been disappointing. While it is true in many cases that patrons will pay 7 cents, 8 cents or 10 cents to ride several miles, much short distance travel apparently prefers to walk if confronted with the higher fares. The recent tendency indicates a disposition to keep all revenue possible from short trips by returning to the psychological nickel and shortening the fare sections so as to secure the needed revenue by more frequently repeating collections.

The trolley lines that handle freight business usually parallel steam roads and have as a rule increased their charges to approximately the steam railroad figures. This has not only given additional revenue, but avoided serious congestion from heavy transfer of business formerly done upon the steam lines.

During the year 76 changes in passenger tariffs and 30 affecting freight service have been filed.

EXPRESS COMPANIES.

The rates of the American Railway Express Company have continued through the year without substantial change. There have been 61 tariffs entered, most of which are in substance but amendments covering arrangements at points outside of Massachusetts.

Many of the short haul so-called freight expresses have abandoned the method of shipping their business in bulk over the railroads as freight, owing to increased rates, and are now handling it by motor truck over the highway, so that such business has passed entirely outside of the jurisdiction of the commission, as it is no longer "carried on upon" or "rendered in connection with" such railroads.

ACCOUNTING DEPARTMENT.

There are now under the jurisdiction of the Commission one hundred and seventy-seven companies engaged in some form of public utility operation, all of which are required by law to file an annual report, showing the result of operation for the year, also the general financial condition. It is the duty of the accounting department to analyze the accounts for the purpose of enforcing uniform accounting as prescribed by the classification of accounts and also for the purpose of securing accurate statements of the financial and physical condition of the companies. All figures contained in the reports are carefully checked, and if errors or omissions are found, said errors or omissions must be corrected by the companies before the reports are finally accepted.

During the year two applications were received from the Boston Elevated Railway Company for authority to issue

bonds on account of additions and betterments to property, and one application from the Bay State Street Railway Company for authority to issue capital stock in accordance with Chapter 188 of the Special Acts of 1918 for account of additions and betterments; also a petition from the Boston and Albany Railroad for the application of a certain unexpended balance authorized to be expended on account of new property. The expenditures heretofore referred to were checked by means of an examination of the vouchers and contracts and an appraisal of the physical property.

The books and accounts of the Grafton and Upton Railroad Company, the Worcester Consolidated and the Union Street Railway companies were examined in connection with pending rate cases and reports thereon were filed with the Commission.

In addition to the above, it is necessary to compile the statistical information which appears in the annual report and additional statistics which are of value to the Commission and the general public.

INSPECTION DEPARTMENT.

The annual and special inspections of steam railroads, private railroads and street railways for the year ended June 30, 1919, were made under the direction of George W. Bishop, chief of the inspection department, representing the Commission. The results obtained from these examinations are shown in the following report:—

While the physical condition of steam railroads shows a slight improvement during the past year, yet the condition of railroad and street railway properties remains unsatisfactory. The present situation is not wholly, but largely, due to conditions which have been created during the past five years. There has been at various times a shortage of men and material necessary to make needed repairs and improvements. The revenue received by these companies during this period has been inadequate to provide for the increased cost of maintenance and operation. These conditions must be remedied before satisfactory results can be expected.

The number of complaints received in connection with railroad operation was 151; in connection with street railway

operation, 111. These complaints were investigated and adjusted by this department, thus obviating the necessity of public hearings or conferences and the issue of orders or memoranda by the Commission.

The number of inquests in cases of death by accident attended by inspectors and assistant inspectors was 314.

RAILROADS.

Locomotives.

The number of locomotive inspections made at various times was 3,829. In 3,197 inspections no defects were found. In 632 cases locomotives were found defective because of steam leaking to obscure the vision of enginemen, or were found to have defective boilers, wheels, spark arresters or ash pans. These defects were called to the attention of the proper officials and remedied. The number of special examinations of spark arresters and ash pans was 2,869.

During the year 26 new locomotives were put into operation in Massachusetts, as follows: Boston and Albany Railroad, 16 freight engines; New York, New Haven and Hartford Railroad, 10 freight engines.

Frog and Switch Blocking.

The number of pieces of foot blocking found to be missing or defective, called to the attention of proper officials and remedied during the year, was 2,458.

Bridge Guards.

The number of bridge guards found defective, called to the attention of proper officials and remedied during the year, was 1,349.

Steam Passenger Train Equipment.

During the year, 11,116 passenger coach inspections were made and in 10,535 of these no defects were found. The number of coaches inspected and found defective with reference to wheels, brakes, lighting, car seat frames, missing emergency tools, or because of untidy conditions, was 581.

Steam Freight Train Equipment.

The number of freight cars inspected, with no defects being found, was 7,890; found defective, 132. Caboose cars inspected with no defects found, 289; found defective, 15. Milk cars inspected, 280, of which none were found defective.

Passenger Stations.

The number of inspections of passenger stations made at various times where stations were found to be in good or fair condition was 4,544. The number found defective with respect to platforms, lavatories, or because of untidy conditions, and called to the attention of proper officials and remedied, was 76.

Accidents.

The number of fatal accidents to individuals on steam railroads investigated was 247. The number of serious personal injuries investigated was 152. The number of other accidents, such as derailments and collisions, investigated, was 171.

STREET RAILWAYS.

Certificates for Operation.

The number of inspections of new street railway tracks made as a preliminary to issuing certificates of operation was 35.

Street Railway Equipment.

During the year 2,698 car inspections were made, and in 1,751 cases no defects were found; the number of cars found defective with reference to wheels, brakes, lighting, car seat frames, or through untidy conditions, was 947.

Accidents.

The number of fatal accidents to individuals investigated was 103. The number of accidents due to broken or loose wheels, broken journals and axles reported was 163; miscellaneous accidents investigated, such as collisions, personal injuries and accidents caused by faulty operation, 248; ac-

cidents caused by spread rails, broken rails, defective special work, poor surface and alignment of track, 447.

The records of the office show that accidents caused by persons coming in contact with either fenders or wheelguards, or both, were: fatal accidents, 9; serious accidents, 15; neither fatal nor serious, 125. Lifting jacks were used three times to extricate persons from underneath cars. In one instance the time consumed was five minutes: in another, ten minutes; and in the other, fifteen minutes.

ENGINEERING DEPARTMENT.

WORK DONE DURING 1919.

During the year there has been no change in the personnel of the department.

Investigations of expenditures have been made on account of additions and betterments charged against issues of capital stock previously authorized by the Commission, or upon which authority to issue capital stock or bonds was desired by the Boston Elevated Railway Company, the Bay State Street Railway Company and the Fore River Railroad Company.

The department has made valuations of the property of the Fore River Railroad Company, the Brockton and Plymouth and the Norwood, Canton and Sharon Street Railway companies.

In connection with petitions for fare increases by the Boston, Revere Beach and Lynn Railroad Company and the Holyoke, Bay State and Union Street Railway companies, investigations of various kinds have been made.

Reports on the valuation by the Interstate Commerce Commission of the Boston and Maine, the Conway Electric, and the Grafton and Upton railroads have been studied and reports made thereon, and the compilation of unit prices in connection therewith has been continued.

Under Chapter 55 of the Resolves of 1919, plans and estimates for the extension of rapid transit facilities to Mattapan and West Roxbury are being made in conjunction with the engineering department of the Transit Department of the City of Boston.

In addition to the above, a new map of the railroad lines of the Commonwealth has been completed, and studies and reports on minor matters have been made, and, under authority of Chapter 527, Acts of 1914, about three days have been spent by the Engineer in connection with the elimination of grade crossings for the department of the Attorney-General.

BRIDGES.

During the year ending December 31, 1918, Bridge and Signal Engineer Moore was engaged in military service in France, and the work of inspecting and reporting on bridges was carried on by the other members of the Engineering Department, with the occasional employment of Prof. James M. Barker, then of the Massachusetts Institute of Technology.

The following tables show the statistics of bridges of each type on each of the railroads: —

Table I gives the total number of bridges of each type on each of the railroads.

Table II gives the approximate total length of bridges of stone, wood and metal on each road.

Table III gives a summary of the bridge work done on the railroads in the Commonwealth during the year ending December 31, 1918.

TABLE I. — Number and Description of Railroad Bridge Spans in Massachusetts, December 31, 1918.

RAILROADS.	Pile Bridges.	Wooden Trestles.	Wooden Stringers.	Braced or Trussed Stringers.	Wooden or Combination Trusses.	Stone, Concrete, or Brick Arches.	I-Beams.	Plate Girders.	Metal Riveted Trusses.	Metal Pin-connected Trusses.	Rails.	Pin-connected Metal Swing Bridges.	Metal Folding, Rolling Lift, Bascule or Jack-knife Draws.	Pratt, Howe, or other Wooden Jack-knife Draws.	Plate Girder Swing Bridges.	Total Spans Stone Bridges.	Total Wooden and Combination Bridges (Fixed Spans).	Total Metal Bridges (Fixed Spans).	Total Movable Bridges.	Grand Totals.	Total Length of Pile and Trestle Bridging (Approximate).
Boston & Albany,	5	2	—	—	—	48	54	110	5	—	—	—	—	—	—	48	7	169	4	228	2,193
Boston & Maine,	57	8	43	1	3	88	70	229	38	7	—	1	8	3	1	88	112	344	13	557	18,181
Boston, Revere Beach & Lynn,	5	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—	5	—	2	7	4,885
Central Vermont,	5	2	7	—	—	—	11	16	9	7	1	—	—	—	—	—	14	44	—	58	504
New York, New Haven & Hartford,	59	26	55	1	4	190	88	576	19	17	12	2	5	—	—	190	145	719	7	1,061	9,185
Totals,	131	38	105	2	7	326	223	931	71	31	13	3	18	3	2	326	283	1,276	26	1,911	34,948

TABLE II. — *Length of Bridging of Wood, Stone and Metal, December 31, 1918.*

RAILROADS.	WOODEN SPANS.		STONE OR CONCRETE SPANS.		METAL SPANS.	
	Num- ber.	Total Length (Feet).	Num- ber.	Total Length (Feet).	Num- ber.	Total Length (Feet).
Boston & Albany,	7	2,193	48	1,571	170	13,007
Boston & Maine,	115	19,995	88	2,194	354	28,443
Boston, Revere Beach & Lynn,	5	4,885	—	—	2	140
Central Vermont,	14	701	—	—	44	3,001
N. Y., N. H. & Hartford,	144	10,378	190	4,126	719	29,423
Totals,	285	38,152	326	7,891	1,289	74,014

TABLE III. — *Bridge Work Done in the Year ending December 31, 1918.*

RAILROADS.	NEW BRIDGES BUILT.			BRIDGES REBUILT OR REPLACED.			BRIDGES STRENGTHENED OR EXTENSIVELY REPAIRED.		
	Wood.	Stone or Concrete.	Metal.	Wood.	Stone or Concrete.	Metal.	Wood.	Stone or Concrete.	Metal.
Boston & Albany,	—	—	—	1	—	1	—	—	3
Boston & Maine,	—	—	—	11	1	14	—	2	13
Boston, Revere Beach & Lynn,	—	—	—	—	—	—	—	—	—
Central Vermont,	—	—	—	—	—	—	—	—	1
N. Y., N. H. & Hartford,	—	—	—	2	1	20	3	7	2
Totals,	—	—	—	14	2	35	3	9	19

SIGNAL DEPARTMENT.

During the year ended December 31, 1918, the following work has been done by the signal department.

The following statement gives the number of signal inspections which have been made:—

Interlocking towers,	235
Signals,	118

Thirty recommendations of changes in signals were made.

Fifty-five plans for interlocking towers and for signal changes were examined and checked. The operation of signals was observed from locomotives both by day and by night. The signal conditions involved in eight collisions and three derailments were investigated. Twenty-three failures were found and remedied. Approval of proposed changes or new construction was recommended in twenty-one cases, and these changes were adopted before the plans were approved.

In addition to the above, the following has been done jointly with other employees of the Commission:—

Valuation of Interstate Consolidated Street Railway.
Valuation of Boston, Revere Beach & Lynn Railroad.
Power-plants on Berkshire Street Railway.

TELEPHONE AND TELEGRAPH DEPARTMENT.

The following figures show the work of the telephone inspectors of the department for the year:—

Complaints,	914
Visits to exchanges, other than on complaints,	91
Service tests,	1,965

While the Government retained control of the wire systems until August 1, 1919, at which time they were returned to private control, the telephone companies in this State, during the period of Government control, continued to recognize the authority of the Commission on all matters other than rates, and the work of the department continued without interruption.

The time of the inspection force was entirely taken up in handling routine complaints involving almost every phase of commercial, plant and traffic work.

Because of this fact, it was impossible, with the very limited force of inspectors, to make any extended traffic survey or tests such as were being attempted under pre-war conditions, and the service tests recorded were made almost entirely in connection with specific complaints which were under investigation by the inspectors of the department.

The work of the department has proceeded on the theory that the most important factor, even more so than rates, is "service" and matters incidental thereto.

If such a department is to approximate its real value to the rank and file of telephone subscribers throughout the state, it should have at least two more experienced inspectors whose whole time would be given to traffic work, and the Chief of the Department has so recommended.

With the knowledge that the actual traffic supervision by the regular officials of the companies was in no way affected by Government control, it has appeared to the department that, making all due allowance for certain war activities which continued for some months after the armistice was signed, the quality of service since that period has not been of a character that telephone users, subscriber and transient, have a right to expect, within reason. But for the reason stated, the department is not in a position to establish the cause or suggest a remedy.

One of the most important changes made during the year was the elimination of the unlimited business service in the Boston central district, which service has been the subject of criticism by the Chief of this Department at several Legislative and Commission hearings. With the exception of the unlimited residence service, the central district, as such, has been eliminated, and all service is now upon a measured basis, with eight mile, and Metropolitan district areas.

Several other large exchange territories were affected by changes from unlimited to measured service, and all so-called "district service" within the state (with the exception of Boston suburban and Metropolitan districts) was eliminated.

Protests against these changes have been received from most of the districts affected.

There is one very important phase of telephone service to which the department wishes to again call attention. As a result of war conditions, there was a very restricted development of telephone plant for general use, with the result that the percentage of party-line subscribers, as part of new development, has been greatly increased, which brings to the front more acutely than ever, the matter of excessive use of the service by one subscriber on a party line as against the rights of the other subscribers upon the line to enjoy a reasonable share of the service.

The Commission has frequently stated that when a subscriber indicates his desire to use the service, the one using it should give way in not over five minutes, and if the subscribers upon party lines will keep this rule in mind, there will be very little cause for complaint.

In practically every case the officials of the various companies under supervision have accepted the suggestions made from time to time by the Chief of the Department, involving changes in the commercial, plant and traffic methods of their companies, which seemed necessary as a result of investigation of specific complaints.

The department has attempted to work out the various problems that have come to it in a spirit of co-operation and helpfulness and has been met with a like spirit on the part of the officials of the telephone company, and a very reasonable attitude on the part of the great bulk of those subscribers who have asked the help of the department in the adjustment of the difficulties which they have encountered in their efforts to secure a reasonable standard of service and treatment.

In dealing with complaints, the department has largely substituted the telephone for the mail, believing that those who need its services should have quick action, because of the vital character of telephone service in the development of the various business and social activities of the state.

The Chief of the Department attended several sessions of the National Association of Public Utilities Commissioners, at Washington, on telephone and telegraph matters, and also the annual convention of the same Association held at Indianapolis in October, at which the telephone and telegraph situation was one of the principal subjects discussed.

Mr. James M. Cushing returned to the department as inspector after a year's absence in military service, and Mr. Patrick J. Drislane, who was temporarily employed during Mr. Cushing's absence, was released.

COURT DECISIONS.

MASSACHUSETTS SUPREME JUDICIAL COURT.

DONHAM, RECEIVER BAY STATE STREET RAILWAY, v. PUBLIC SERVICE COMMISSION.

(232 MASS. 309.)

OPINION. JANUARY 22, 23, 1919 — FEBRUARY 28, 1919.

RUGG, C.J. This is a petition in equity brought by the receiver of the Bay State Street Railway Company against the public service commissioners under the authority of St. 1913, c. 784, § 27, "to review, annul, modify or amend" orders and rulings of the defendants respecting fares to be charged by the Street Railway Company. The allegations of fact contained in the petition, to which is annexed a copy of the report and order of the public service commissioners here complained of, are admitted by the answer. The case is reserved upon the petition and answer and a stipulation incorporating in the record certain decisions of the public service commissioners. The plaintiff was appointed receiver on the twelfth of December, 1917, and since then has been operating and managing the street railway. The street railway is extensive in miles of track and number of municipalities served, furnishing urban and interurban transportation for the people residing in eighteen cities varying in size from Fall River, with a population of one hundred twenty-four thousand seven hundred ninety-one, to Woburn, with sixteen thousand four hundred ten inhabitants, and thirty-six or more country towns in the eastern part of the Commonwealth. It is described as "one of the largest street railway systems in point of mileage in this country. On June 30, 1914, it operated in all 951 miles of single track. It owned 897 miles located in Massachusetts, all of which it operated, except 27 miles in the southern part of Boston." (4 M. P. S. C. R. 8.) It operates in Boston only to a limited extent and barely touches New Bedford. Ex-

cluding those cities, the population of the territory served is one million three hundred thirty-five thousand seven hundred eighty-seven.

The receiver in October, 1918, filed with the public service commissioners under the provisions of § 20 of said c. 784, a schedule of proposed fares and charges (being increases), in substance eliminating all reduced rate tickets except tickets for pupils in the public schools, establishing enlarged city zones with a uniform cash fare of ten cents and dividing its country lines into zones or sections about two miles long with a minimum cash fare of ten cents good for two zones or sections, and five cents for each additional zone or section thereafter. The receiver estimated that the proposed rates would produce annually from two million to two million and a half dollars additional revenue. The public service commissioners held hearings in accordance with § 21 of the act and in December, 1918, filed a report in general disapproving the proposed rates and requiring the receiver to cancel them and to file a new schedule in substantial compliance with the rates, fares and charges fixed by the Commission in its findings and conclusions. The schedule of fares outlined in the report of the public service commissioners was to continue for a tentative trial period of two months. It is the contention of the receiver that the schedule and order of the public service commissioners withholds from him as receiver a reasonable return for the service rendered and a fair recompense upon the investment honestly and prudently made in the property, and thus deprives him of his property without due process of law, denies him the equal protection of the laws, and that the rates, fares and charges established by the report and order of the public service commissioners are unjust, unreasonable and confiscatory.

The pertinent provisions of the statute, so far as concerns the powers of the public service commissioners respecting rates, are in §§ 21 and 22 of said c. 784. Succinctly stated, the Street Railway Company, when a change in rates is proposed, must file a schedule showing present rates and proposed changes. Thereupon the public service commissioners may hold a hearing and in case an increase of fares is proposed, "the burden to show that such an increase is necessary in order to obtain a reasonable compensation for the service rendered" shall be upon the Street Railway Company. "Reasonable compensation for the service rendered" is the test established, when a decrease in rates is asked, for the exercise of the power of the public service com-

missioners, "to determine what will be the just and reasonable rate or rates, fare or fares." (Section 21.) Whenever, after hearing, the public service commissioners are of opinion that the "rates, fares or charges or any of them . . . are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of any provision of law or that the rates, fares or charges or any of them . . . are insufficient to yield reasonable compensation for the service rendered and are unjust and unreasonable, the commission shall determine the just and reasonable rates, fares and charges to be charged for the service to be performed and shall fix the same by order . . . ". The scope of the powers conferred by the statute upon the public service commissioners is far reaching. Subject only to the limitations that the fares, rates and charges must "yield reasonable compensation for the service rendered" and must be "just and reasonable" having relation to "the service to be performed" and must not violate any provision of law, its powers are ample. *Arlington Board of Survey v. Bay State Street Railway*, 224 Mass. 463, 469. It is implied from the nature of statutory law that the powers of boards of public officers thereby created must always be exercised subject to the provisions and guarantees of the constitution of the Commonwealth and that of the United States. It is not contended by the receiver that the public service commissioners have exceeded their statutory powers (save in one particular hereafter noted) unless they also have transgressed the restrictions imposed by the constitutions of the state and nation.

The rule established by the public service commissioners for their guidance in fixing rates in an earlier case and apparently intended to be followed by them in others, so far as applicable, is that under the Massachusetts law "capital honestly and prudently invested must under normal conditions be taken as the controlling factor in fixing the basis for computing fair and reasonable rates," and that "such rates are to be allowed as will yield a fair return upon such investments." (*Bay State Rate Case*, 4. M. P. S. C. Rep. 11 and 12.)

In an earlier hearing where the subject of the amount of capital honestly and prudently invested by the Bay State Street Railway Company and then usefully employed in its business was considered exhaustively, the public service commissioners decided that amount to be \$39,104,340, and that the rate of income to which it fairly was entitled was six per cent per annum. (4 M. P. S. C. Rep. pp. 52, 64, 66.) These figures plus investments

shown to have been made since and now approximating \$41,170,000, as the present total prudent and usefully employed investment, appear to be assumed as substantially correct by the public service commissioners in their report and order now under review.

The present situation as to estimated expenses and income is set forth in the report of the commissioners, with accompanying schedules, as follows: —

The company's petition for higher fares is based upon a statement of operating results under present conditions. For the year ending December 31, 1918, these figures are as follows (9 months actual, 3 months estimated): —

Operating expenses,	\$8,790,767
Taxes,	484,720
Depreciation,	1,104,000
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Total,	\$10,379,487
Gross income,	10,045,464
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Deficiency,	\$334,023
6 per cent upon investment,	2,470,200
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Total deficiency,	\$2,804,223

The present fares, however, have only been in effect since June, and the same is true of certain increases in wages. On December 6, 1918, moreover, the National War Labor Board granted further increases in wages estimated by the company to amount to about \$875,000 yearly. Assuming, then, a full year's operation on the basis of present fares and present wages, the figures above given are changed, as follows: —

Operating expenses,	\$10,233,000
Taxes,	484,720
Depreciation,	1,104,000
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Total,	\$11,821,720
Gross income,	10,466,000
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Deficiency,	\$1,355,720
6 per cent upon investment,	2,470,200
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Total deficiency,	\$3,825,920

These figures are only approximate and are open to criticism in certain respects. The margins are so wide, however, that there is no room for doubt that the company is in dire need of a large amount of additional revenue, even if dividends on stock are left out of consideration.

The chief reasons for this situation are said to be (1) heavy increase in wages likely to absorb 65 to 70 per cent of yearly receipts on present basis; (2) great increase in cost of steel, coal, copper and other materials necessary for operation; (3) offset of increase in fares by loss of traffic; (4) the adverse conditions of poor equipment; (5) lack of profit on many country lines; (6) the wide prevalence of the epidemic known as influenza, a factor seriously affecting receipts during October and November, 1918.

It thus is manifest from the record and is in substance conceded by both the receiver and the attorney-general, that neither the schedule of fares proposed by the receiver nor that established by the order of the public service commissioners will yield revenue sufficient to meet the fixed charges of operation and of interest, allow the setting apart of any substantial or adequate sum for depreciation, and pay any dividend upon the fair value of the property, or amount of honest investment.

The question of law in essence under these circumstances is whether, when confessedly the schedule of fares presented by the receiver will not yield a revenue sufficient to meet fixed charges and necessary expenses of the Street Railway Company, and to pay any substantial return upon the capital value, it is within the power of the public service commissioners to change that schedule of fares by making changes. We put the question thus broadly because, whether the rates of fare as presented in the schedule of the receiver be lowered or raised, cogent argument might be advanced that the revenue likely to be raised thereby would be less than that which would be realized from the schedule of the receiver.

The subject of rate making or rate revision by the legislature or by public officers established by legislative authority, has not been much discussed in the decisions of this court. *Arlington Board of Survey v. Bay State Street Railway*, 224 Mass. 463. *Fall River v. Public Service Commission*, 228 Mass. 575, 580. *National Dock & Storage Warehouse Co. v. Boston & Maine Railroad*, 227 Mass. 197. In the opinion in the last case it was said at page 202 that the duty of the public service commission was to determine a rate which "would be fair and reasonable and not confiscatory." The subject, however, has been much discussed in decisions of the United States Supreme Court. It was said in *Smyth v. Ames*, 169 U. S. 466, at page 522: "What amounts to deprivation of property without due process of law or what is a denial of the equal protection of the laws is often difficult to

determine, especially where the question relates to the property of a quasi public corporation and the extent to which it may be subjected to public control. But this court, speaking by Chief Justice Waite, has said that, while a State has power to fix the charges by railroad companies for the transportation of persons and property within its own jurisdiction, unless restrained by valid contract, or unless what is done amounts to a regulation of foreign or interstate commerce, such power is not without limit; and that "under pretence of regulating fares and freights, the State cannot require a railroad corporation to carry persons or property without reward, neither can it do that which in law amounts to the taking of private property for public use without just compensation, or without due process of law." *Railroad Commission Cases*, 116 U. S. 307, 325, 331. This principle was recognized in *Dow v. Beidelman*, 125 U. S. 680, 689, and has been reaffirmed in other cases. In *Georgia Railroad & Banking Co. v. Smith*, 128 U. S. 174, 179, it was said that the power of the state to prescribe the charges of a railroad company for the carriage of persons and merchandise within its limits — in the absence of any provision in the charter of the company constituting a contract vesting it with authority over those matters — was "subject to the limitation that the carriage is not required without reward, or upon conditions amounting to the taking of property for public use without just compensation." In *Reagan v. Farmers' Loan & Trust Co.*, 154 U. S. 362, 412, occurs this statement: "It is unnecessary to decide, and we do not wish to be understood as laying down as an absolute rule, that in every case a failure to produce some profit to those who have invested their money in the building of a road is conclusive that the tariff is unjust and unreasonable. And yet justice demands that every one should receive some compensation for the use of his money or property, if it be possible without prejudice to the rights of others. There may be circumstances which would justify such a tariff; there may have been extravagant and a needless expenditure of money; there may be waste in the management of the road; enormous salaries, unjust discrimination as between individual shippers, resulting in general loss. The construction may have been at a time when material and labor were at the highest price, so that the actual cost far exceeds the present value; the road may have been unwisely built, in localities where there is no sufficient business to sustain a road. Doubtless, too, there are many other matters affecting the rights

of the community in which the road is built as well as the rights of those who have built the road." The property of the street railway "corporation has been devoted to a public use. There is always the obligation springing from the nature of the business in which it is engaged — which private exigency may not be permitted to ignore — that there shall not be an exorbitant charge for the service rendered. But the state has not undertaken the service itself; and the private property embarked in it is not placed at the mercy of legislative caprice. It rests secure under the constitutional protection which extends not merely to the title but to the right to receive just compensation for the service rendered to the public." *The Minnesota Rate Cases*, 230 U. S. 352, 433-434. It was said in *Missouri, K. & T. R. Co. v. Interstate Commerce Commission*, 164 Fed. 645, at 648 (three circuit judges sitting, of whom Mr. Justice Van Devanter was one): "To be just and reasonable, within the meaning of the constitutional guaranty, the rates must be prescribed with reasonable regard for the cost to the carrier of the service rendered and for the value of the property employed therein; but this does not mean that regard is to be had only for the interests of the carrier, or that the rates must necessarily be such as to render its business profitable, for reasonable regard must also be had for the value of the service to the public. And where the cost to the carrier is not kept within reasonable limits, or where for any reason its business cannot reasonably be so conducted as to render it profitable, the misfortune must fall upon the carrier, as would be the case if it were engaged in any other line of business." See *Northern Pacific Railway v. North Dakota*, 236 U. S. 585, and cases collected at page 600. *Municipal Gas Company of the City of Albany v. Public Service Commission*, 225 N. Y.

The finding of the rate making power should always be accorded respect and given every rational presumption in its favor. "Judicial interference should never occur unless the case presents clearly and beyond all doubt such a flagrant attack upon the rights of property under the guise of regulations as to compel the courts to say that the rates prescribed will necessarily have the effect to deny just compensation for private property taken for public use." *San Diego Land & Town Co. v. National City*, 174 U. S. 739, 757.

We adopt in general these quoted statements as the law respecting the scope of regulation by public authority of the rates, fares and charges of corporations exercising public franchises.

It seems to us unnecessary to consider the somewhat broader statements of the rate making power to be found in other decisions, or what may be the rule where the trend of events has depreciated the value of the capital investment originally made honestly and prudently. See *Brunswick & Topsham Water District v. Maine Water Co.* 99 Me. 371, 381; *Puget Sound Electric Railway v. Railroad Commission*, 65 Wash. 75, 87; and *Covington & Lexington Turnpike Co. v. Sanford*, 164 U. S. 578.

We are dealing in the case at bar with an amount of honest investment of capital about which there is no controversy and with a present management, which according to the report "has been industrious" "to make every feasible effort to secure economy of operation." While the public service commissioners offer a few suggestions for the future and make some criticisms of management and of a very few salaries paid, these are comparatively insignificant. As the report states, "it is clear that the chief factor in the present unfortunate plight of the company is the recent extraordinary rise in wages and prices, rather than any of these things. It is a condition by which the public is now confronted. The problem is not one of securing any immediate return of any particular amount on the investment, but of meeting the necessary and unavoidable cost of furnishing the service. If the railway should be sold at receiver's sale and even if it should be split up into a number of different parts, the same problem would remain under present conditions."

The situation disclosed on this record has not arisen in any other case, so far as we are aware. But the principles declared in these somewhat analogous instances afford a guide for the deduction of the sound rule, which will protect the constitutional rights of the company and the receiver and at the same time be just to the public interests.

The property of the Street Railway Company has been devoted to the public service of furnishing transportation. Conditions not attributable to the fault of the stockholders or managers of the company have arisen, which render it impossible for the receiver to collect an amount from the present rates which will yield revenue sufficient to be compensatory for the investment made. The receiver voluntarily has determined, by filing his schedule of rates, to operate the system upon a basis of revenue for the immediate future not sufficient to meet the requirements of compensatory return upon the investment. Unless it is clear that the rate established by the public service commissioners is reasonably certain to afford less receipts than that proposed by the

receiver, he has suffered no injury, and hence in equity there would be no reason to revise the report and order of the public service commissioners.

We proceed to a more detailed consideration of the report of the public service commissioners. From that it appears that since October 1, 1916, there have been four increases of fares over the whole or parts of the system of the company. The estimates of the company or its representatives was that these increases would produce \$2,791,000 in additional revenue. The actual augmentation of revenue, on the contrary, including about \$100,000 of enlarged freight receipts, was \$1,099,783. As already stated, the schedule now proposed by the receiver is in substance to eliminate all tickets including workmen's tickets, to establish city zones with a uniform ten-cent fare and to divide the country lines into zones about two miles in length with a minimum fare of ten cents for two zones and five cents for each succeeding zone. With reference to this it is said in the report that in no other communities of similar size in the United States is a minimum fare of ten cents charged or even proposed, and that nowhere else in the country is so radical and burdensome an increase of fares made or proposed as compared with that of October 1, 1916, on the Bay State system. It is said, also: "In the first 'Bay State Rate Case' the Commission held that, to sustain the burden of proof imposed by the statute, the company must 'satisfy the Commission that there is at least a reasonable prospect that the change in fares desired will result in an increase in revenue.'" (4 P. S. C. Rep. p. 14.) In the present instance the receiver and the management apparently believe that the new tariff will produce substantially the gain in revenue estimated. On the other hand, the remonstrants, many of them official representatives of the cities and towns involved, were unanimous in expressing the conviction that a 10-cent minimum fare will be disastrous in its effect upon the company itself; and it is our belief that they were entirely sincere in this expression. It is also within our knowledge that many street railway officials are skeptical as to the wisdom of so high a minimum rate. Street railway fares have been more frequently and more generally raised in Massachusetts than in any other part of the country, and while it cannot be said that no advantage to the companies has resulted, it is true that in nearly every case the gain in revenue has been less — and often far less — than the prior estimates. Other factors have entered in, but, making all due allowances, it is

quite clear that increases in fares impose a burden upon the public which considerably exceeds the benefit which they bring to the companies." The report contains a careful analysis of the increases of fare allowed since October, 1916, which shows that the percentage of the present increase proposed in the schedule of the receiver over the fares and charges on that date range in various instances from fifty to four hundred per cent and in numerous places are about two hundred per cent. The following excerpts from the report fairly state the additional grounds of the public service commissioners for refusing to accept the estimate of the receiver as to the probable increase of revenue from the increases in fares proposed by him. "The cities served by the Bay State are compact, the distances are short, and the population made up on the whole of persons of very moderate means. It is possible that there are sufficient patrons who cannot find other means of transportation, who cannot walk or move their place of residence, and who are obliged to use the Bay State cars, so that revenue advantage may be gained from the proposed new fares. Our experience in many other cases, however, leads us to place little faith in the estimates of gain submitted, and to share the fears expressed by the representatives of the communities. The best that can be said of the new schedule, from the point of view of the company, is that it is a *chance*, the risk of which is increased by the fact that the service is poor and will continue to be poor, under the most favorable conditions which can be anticipated, for some time to come. Viewing the new rates from the public point of view, there is a certainty of a most disturbing effect. It is impossible to raise fares within a period of 2 years to the extent proposed in the company's new tariff, without disrupting and dislocating the conditions to which community life has become adjusted. The new schedule means that the company will practically abandon the short-haul business in the city centers, and from the centers to the nearby suburban towns the rates will be so increased that it is difficult to believe that much regular daily traffic can in the long run be preserved. Still more disturbing, moreover, is the fact that, even if the new fares should prove unsuccessful in producing the revenue desired, experience has shown that it would be well nigh impossible thereafter to reduce them." The report proceeds: "Under present abnormal conditions, dealing with a situation so critical as the one by which we are now confronted, where the solution offered by the company is so uncertain and hazardous, we believe we are justified in disre-

garding speculative estimates of arbitrary rules and in taking the action which our best judgment leads us to believe will secure the best net results for all concerned. The company is in dire need of additional revenue, if only to provide a safe margin above necessary expenses of operation. Stating our proposition broadly, we propose to authorize for a brief trial period an increase in rates which seems likely, in our opinion, to produce a larger actual gain in receipts than the tariff proposed by the company and will at the same time result in less serious damage to the community, leaving the future to be dealt with in a manner which we shall hereinafter indicate." The fares fixed by the report on city lines are in general seven cents, to be made available to the public only through the purchase of tickets or tokens at the rate of five for thirty-five cents, with the proviso that cash fares shall be ten cents each. On the country lines the report approved the schedule of the receiver except that the company is offered the option of making the minimum for a single zone five cents in cash or following the same plan established for the cities of selling tickets or coupons at the rate of five for thirty-five cents.

The report shows, however, that this proposal is tentative only. The present is treated as a transition period. It is recognized that no one can be sure what the course of prices will be or what the immediate future has in store in other respects. The public service commissioners say: "It is our plan that the new schedule above outlined be made effective for a trial period of two months. If at the end of that time it has, in combination with any other factors which may enter in, produced an increase in gross earnings, in comparison with the corresponding period of the previous year, of 15 per cent or more, after making allowance for loss of revenue on any lines which may have been discontinued, it is our judgment that the experiment ought to be continued for a similar period, in the hope that the situation may be further improved by action of the General Court, or by change in economic conditions. In other words, a gain of this character will be solid and substantial ground for encouragement, and for the expectation of even better results in the future. It will be a gain far better than this or other companies have in general been able to secure from any changes in rates which have yet been made. If maintained and gradually improved throughout the year, it should also be sufficient to cover operating expenses, taxes, interest on debt, and some provision for depreciation. If,


however, such an increase in revenue is not realized during the period of two months, or is not substantially maintained thereafter, the Commission will not stand in the way of a trial of the schedule which the company now proposes. In such an event, the situation will in our judgment be so critical that we would not be justified in interposing further obstacles to this experiment."

Considerable space in the report is devoted to the permissive special statute of 1918, c. 188, whereby the general court offered to the directors and stockholders of the Bay State Street Railway Company opportunity for reorganization upon such basis that the annual interest and dividend charges should not exceed six per cent on the amount found by the public service commissioners in 1916 to have been honestly and prudently invested in the property, added to the like investments made since. That scheme provides for management for a period of ten years by a board of trustees appointed by the governor, and the fares are to be established and automatically adjusted upon a so-called "service-at-cost" principle "so far as is consistent with the public interest and is reasonably practicable." This permissive statute contemplates the raising of \$1,000,000 in cash and the immediate sale of \$2,500,000 of bonds for the uses of the reorganized company. This statute has no direct bearing upon the rates of fare. It is, however, one of the factors to be thought of in connection with the permanent future of the company. We do not understand that the public service commissioners attributed to it any weight in reaching its decision. It simply is one of the elements considered in common with others indicating the abnormal present conditions and the necessity of bridging the transitional period.

These copious extracts from the report of the public service commissioners appear to us to make manifest a purpose to deal fairly with the company, while at the same time having due regard for the interests of the public. Comparative revenue likely to be derived under the two schedules is largely a matter of prophecy. The wide discrepancies between the anticipation of accessions to income expressed by the representatives of the company when the former increases in fares were made, and the realization in actual receipts by experience, naturally cause one to hesitate to give absolute credence to the opinion now expressed by the company and its representatives respecting the return likely to be gained from the schedule of fares presented by

the receiver. There appears to be good ground for the belief that the plan proposed by the public service commissioners will be as profitable as that set forth in the receiver's schedule. The fifteen per cent increase of income proposed by the commissioners, when applied to the "company's estimate of revenue for full year on present fares, based on experience", would be as we understand it, a proportionately larger realization of the company's estimate of additional revenue to be produced from the receiver's proposed schedule of fares than has been realized by experience as compared with its estimates of additional revenue to be produced from the four increases in fares made since October 1, 1916. In any event, it seems to us impossible to predict with any assurance that the increased rates proposed by the public service commissioners will not be productive of as much additional revenue as would the rates proposed in the receiver's schedule. It cannot be asserted that they will produce less additional revenue.

The situation here disclosed seems to bring the present case within the category of "cases where the evidence as to the probable result of the rates in controversy would show that they were so nearly adequate (that is to say, so nearly equivalent to the amount likely to be realized from the schedule proposed by the receiver) that nothing but a practical test could satisfy the doubt as to their sufficiency." *Wilcox v. Consolidated Gas Co.*, 212 U. S. 19, 50. The circumstances during the period covered by the report have been extraordinary by reason of the war and the unusual increases in all the costs of operation of the Street Railway System. All the conditions have been and still are "too abnormal to enable us to say that the commission's rates are confiscatory." *Darnell v. Edwards*, 244 U. S. 564, 570.

Taking the report as a whole, not over-emphasizing subsidiary paragraphs but giving it fair interpretation as a composite unit, we do not think it can be said that the rates established by the public service commissioners are plainly unreasonable to the extent of affording less revenue to the street railway company than the rates proposed by the receiver in his schedule. 

The period of time for experimentation proposed by the public service commissioners (being not over four months in the aggregate and possibly not over two months) in order to determine by actual experience whether its rates yield as much as the estimates of those proposed by the receiver, diminished by the proportion of excess shown to exist in previous estimates of the Street Railway Company over actual experience, cannot be said to be excessive.

Particular attack is made upon the order of the public service commission respecting fares upon city lines. These are its words: "In the cities the company may combine the present inner and outer zones into one area, *charging a 7-cent fare by the sale of 5 tickets or metal tokens for 35 cents*. For the purpose of encouraging the use of tickets, and in this way avoiding the difficulty in fare collection which arises when pennies are involved, the cash rate may be made 10 cents, but it is the purpose to make the real fare 7 cents readily available to all riders. The tickets or tokens are to be sold by conductors on the cars, and it is a part of the plan that patrons shall be informed by the conductors that they may be obtained . . ."

It is contended that this part of the order is beyond the power of the public service commission. The argument in brief is that § 19 of said c. 784 confers power to make orders respecting the issuance of tickets only when the schedule presented by the carrier offers tickets as a part of its proposed fares and that, since the schedule of the receiver dealt only with cash fares, the public service commission can make orders with respect to cash fares alone.

This is too narrow a construction of the statute. Its other sections show that the powers of the public service commission are limited only by the requirement that they be "just and reasonable." (Section 22.) The order in the case at bar means that the fare is fixed at seven cents but that for practical reasons the members of the public can avail themselves of this rate only by making an initial purchase of at least five tickets. The fare is not established at ten cents. A different question might be presented if a cash fare were established as the standard and then the company were required to issue commutation or reduced-rate tickets against its will. The unit fare is established at seven cents as just and reasonable. But the public service commissioners say that, to prevent confusion and delay, and to minimize the losses arising from dishonesty on the part of the traveling public and of conductors, and perhaps for other reasons, at least five tickets or tokens must be purchased at one time. The power to make such an order is within the authority conferred by the statute. *Arlington Board of Survey v. Bay State Street Railway*, 224 Mass. 463, 469. *Fall River v. Public Service Commission*, 228 Mass. 575, 580.

Such an order does not seem to us to be irrational. *Swan v. Manchester & Lawrence Railroad*, 132 Mass. 116. *Martin v. Rhode Island Co.*, 32 R. I. 162. (See note in *Ann. Cas.* 1912,

C 1290, for collection of cases.) Standing by itself, it does not appear to us to violate any of the constitutional rights of the Street Railway Company, or to be in conflict with any constitutional principle declared in *Lake Shore & Michigan Southern Railway Co. v. Smith*, 173 U. S. 684, as limited by *Pennsylvania Railroad v. Towers*, 245 U. S. 16. *Northern Pacific Railway v. North Dakota*, 236 U. S. 585.

We are of opinion that it does not appear that the report and order of the public service commissioners are violative of any constitutional right of the receiver or of the Street Railway Company.

Answering now the precise question of law, posited at the outset of the review of decisions as the crucial one in the case at bar, in the light of the statements quoted and decisions cited, we are of opinion that, where by all parties in interest the times are recognized as abnormal and the particular period as one of transition so that both the receiver of the Street Railway and the public service commissioners by their words and conduct agree that any substantial return upon the capital honestly and prudently invested must, even under wisely economical management, be suspended temporarily and that any rates established at the moment are likely to be impermanent and experimental, the public service commissioners are not, under either the constitution of Massachusetts or that of the United States, deprived of power to modify the schedule of rates, fares and charges proposed by the receiver, but that the public service commissioners may make such changes therein as in its judgment are required by the public interests and the rights of the owners of invested capital, when the revenue to be derived therefrom is not thereby substantially diminished below that likely to be derived from the rates proposed by the receiver. The rate making power established by legislative authority is not stripped of all functions because extraordinary conditions have sprung into existence, which the owners of the privately owned public utility recognize as preventing them from deriving any income for the time being from their investment; but it still may exercise its judgment for the protection of the public interests when it does not reduce substantially the revenue, proposed to be exacted from the public by the owners of the public utility. Simply because such owners are for the moment failing to receive the just compensation to which in the long perspective they are entitled, they are not thereby necessarily at liberty to fix their own terms. Their property is still affected with a public interest.

The result here reached appears to us in harmony with the decisions, to which reference has been made, and is fairly deducible from them. We perceive nothing at variance with it in *Lake Shore & Michigan Southern Railway v. Smith*, 173 U. S. 684, much relied on by the receiver, as modified by *Pennsylvania Railroad v. Towers*, 245 U. S. 6, 17, or in *Denver v. Denver Union Water Co.*, 246 U. S. 178, and *Detroit United Railway v. Detroit*, 248 U. S.

We do not find it necessary to discuss whether circumstances may arise where the public service commissioners may be warranted, even under circumstances such as are here disclosed, in establishing rates likely to yield a revenue less than that likely to be derived from those proposed by the receiver, or less than a fair interest on capital honestly and prudently invested. The present decision is confined to the facts disclosed on this record.

A further question is reserved on this report. It is whether the city of Fall River is entitled to be heard as a party in this proceeding. It is not named as a party in the petition. It contends that it is a party and has a right to be heard as such, and its counsel declined to accept the opportunity offered by the single justice that he might be heard as *amicus curiae*. That contention rests in part upon St. 1918, c. 144, which requires written notice to be given by the public service commission, upon the filing of any petition or schedule for change in rates of fare upon a street railway, to the mayors of all cities and the selectmen of all towns in which the street railway operated, or which would be affected by the proposed change. Reference is made, also, to St. 1918, c. 288, which authorizes a city or town under certain conditions to contribute to the cost of operation and fixed charges of a street railway within its limits, although it is not contended that Fall River has thus made any contribution to the support of the Bay State Street Railway Company. The proceedings before the public service commissioners are in part investigations into facts. It is often, if not always, necessary or desirable to ascertain local conditions. One way to obtain such information would be from the executive officers of the municipalities affected. When the public service commission has concluded its investigation, it makes an order and the statute imposes upon the commission the duty to enforce that order or to defend that order if attack is made upon it. (St. 1913, c. 784, § 28.) When proceedings are instituted in court, the matter is one between the public service commission and the complaining party. Other parties are sometimes joined in the petition, and occasionally

undertake the burden of supporting the order of the commission. *Buckley v. New York, New Haven & Hartford Railroad*, 216 Mass. 432. *Western Union Telegraph Co. v. Foster*, 224 Mass. 365. *Fall River v. Public Service Commission*, 228 Mass. 575. *Bay State Street Railway v. Public Service Commission*, 229 Mass. 399.

It has not been contended that Fall River under § 27 may not itself bring a petition. (See *Fall River v. Public Service Commission*, 232 Mass. 329.) That affords ample relief to any municipality affected.

It is urged that the phrase "The burden of proof", beginning the fourth sentence of § 27 of said c. 784, implies trials of facts in the Supreme Judicial Court on petitions like that here pending, and that hence all parties heard or entitled to be heard before the public service commission, have a right to be heard here. That phrase warrants no such inference. The power of this court under that section is confined to dealing with "rulings or orders of the commission which are unlawful to the extent only of such unlawfulness." Manifestly no power to rehear facts is conferred by these words. *Paine v. Newton Street Railway*, 192 Mass. 90. The findings of fact of the commission are not to be reviewed or revised by the hearing of evidence in a case like the present.

When constitutional questions are involved, the court will examine the report of the public service commissioners for the purpose of reaching its own conclusions, not fettering its discretion or judgment by artificial rules as to its weight, but attributing to it and to its several parts all the force and effect to which its substance and a consideration of the expert nature of its investigations and conclusions naturally entitle it. *Knoxville v. Knoxville Water Co.*, 212 U. S. 1, 8. It would be quite unusual for the legislature to require or permit as parties to a proceeding like this, all cities and towns through which a common carrier operated its lines. Such a construction of the statute would offer the opportunity for protracted delay in the enforcement of the orders of a public board created by the legislature for the purpose of making decisions which are designed to be enforced without delay since they are given special precedence. Section 27 of said chapter 784. On principle and on a true construction of the statutes, the city of Fall River is not a proper party to this suit. The public interests are entrusted to the attorney general. *Attorney-General v. Williams*, 178 Mass. 330, 334. *Chandler v. Railroad Commission*, 141 Mass. 208. *Norwood v. New York &*

New England Railroad, 161 Mass. 259, 268. *Dwyer v. New York, New Haven & Hartford Railroad*, 209 Mass. 419. *Davis v. County Commissioners*, 153 Mass. 218. *Central Bank & Trust Corp. v. Cleveland*, 164 C. C. A. 446; 252 Fed. Rep. 530.

Petition dismissed.

CITY OF FALL RIVER AND OTHERS v. PUBLIC SERVICE COMMISSIONERS AND ANOTHER, RECEIVER.

(232 MASS. 329.)

OPINION. BRISTOL. JANUARY 23, 1919—FEBRUARY 28, 1919.

Bill in equity, filed in the Supreme Judicial Court on January 7, 1919, by the city of Fall River against the members of the public service commission and the receiver of the property of the Bay State Street Railway Company under St. 1913, c. 784, § 27, alleging that the order of the public service commission, relating to the operation by the defendant receiver of the city lines of the Bay State Street Railway Company, "requiring the purchase of five tickets in order to obtain a seven cent fare and allowing a fare of ten cents to be charged when cash is paid is unreasonable, excessive and unlawful; that it limits and lessens the legal tender character of the coin of the United States; and that it violates the provisions both of the United States statutes and of the Constitution of the United States relating to the making of legal tender, to the issuing of coin and regulating the value thereof;" and praying "that the order allowing or requiring said charge of a fare of ten cents when the payment is made in cash and requiring the purchase of five tickets to ride at the rate of the seven cent fare shall be stayed, pending a final decision; that the order shall be reviewed, amended, modified and annulled, so that the unlawful part of said order may not be enforced; and that the court grant such further relief as may be meet and just."

The case came on to be heard before *DeCourcy, J.*, who at the request of the parties reserved it upon the bill and answers for determination by the full court.

U. S. Rev. Sts. § 3587, is as follows: "The minor coins of the United States shall be a legal tender, at their nominal value for any amount not exceeding twenty-five cents in any one payment."

RUGG, C.J. It is sought by this petition to annul the portion of the order of the public service commission (discussed at large

in *Donham v. Public Service Commissioners*, ante, 309), which relates to city lines and requires the issuance of not less than five tickets or tokens for thirty-five cents as the sole means by which the public can avail itself of the seven cent fare there established, and the requirement of a ten cent fare when paid in cash. Such an order is within the scope of the authority conferred by St. 1913, c. 784, upon the public service commission. The order itself is not irrational. It is open to no objection in law. *Donham v. Public Service Commissioners*, ante, 309.

In our opinion no federal question is presented on this record. There is no attempt to make anything else than silver or other coin or money of the United States legal tender. The fare is fixed by the order of the public service commission. If cash is offered and not a ticket, ten cents is required. That may be paid in legal tender. If a ticket is presented, it also is to be accepted. But there is no obligation to present anything except legal tender in payment for the fare. Manifestly U. S. Rev. Sts. § 3587, to the effect that minor coins of the United States shall be legal tender, has no relevancy to such transactions as are here contemplated. Art. 1, § 8, of the Constitution of the United States, conferring upon Congress exclusive power to coin money and regulate the value thereof, and § 10, forbidding the States to make anything but gold and silver coin a tender in payment of debts, appear to us to be equally irrelevant. See *Swan v. Manchester & Lawrence Railroad*, 132 Mass. 116, and *Pennsylvania Railroad v. Towers*, 245 U. S. 6.

Petition dismissed.

PUBLIC SERVICE COMMISSION v. NEW ENGLAND
TELEPHONE AND TELEGRAPH COMPANY.

(232 MASS. 465.)

OPINION. FEBRUARY 27, 1919 – MARCH 22, 1919.

RUGG, C.J. This is a petition in equity brought under St. 1913, c. 784, § 28, to enforce by injunction an order of the public service commission dated January 20, 1919, relative to toll telephone rates within the Commonwealth. The case comes before us by reservation for determination upon the bill and answer. The case must be considered upon the footing that the averments of the answer are true where in conflict with those of

the bill and that the allegations of the bill are true only so far as admitted or not at variance with facts well completed in the answer. *Perkins v. Nichols*, II *Allen*, 542. *American Carpet Lining Company v. Chipman*, 146 Mass. 385. The pertinent facts thus ascertained are that prior to July 3, 1918, the defendant was a corporation operating within the Commonwealth an extensive system for the transmission of intelligence by telephone. On July 16, 1918, during the continuance of the great war the Congress of the United States in the exercise of its war powers passed a resolution empowering the president during the war "to supervise or to take possession and assume control of any telegraph, telephone, marine cable or radio system or systems, or any part thereof, and to operate the same in such manner as may be needful or desirable for the duration of the war." The president exercised the power thus conferred by his proclamation of July 22, 1918. Its relevant provisions were that "I . . . do hereby take possession and assume control and supervision of each and every telegraph and telephone system, and every part thereof, within the jurisdiction of the United States including all equipment thereof and appurtenances thereto whatsoever and all materials and supplies. It is hereby directed that the supervision, possession, control, and operation of such telegraph and telephone systems hereby by me undertaken shall be exercised by and through the Postmaster General, Albert S. Burleson. Said Postmaster General may perform the duties hereby and hereunder imposed upon him, so long and to such extent and in such manner as he shall determine, through the owners, managers, boards of directors, receivers, officers, and employees of said telegraph and telephone systems. Until and except so far as said Postmaster General shall from time to time by general or special orders otherwise provide, the owners, managers, boards of directors, receivers, officers and employees of the various telegraph and telephone systems shall continue the operation thereof in the usual and ordinary course of the business of said systems, in the names of their respective companies, associations, organizations, owners, or managers, as the case may be. . . . From and after 12 o'clock midnight on the 31st day of July, 1918, all telegraph and telephone systems included in this order and proclamation shall conclusively be deemed within the possession and control and under the supervision of said Postmaster General without further act or notice". On August 1, 1918, the Postmaster General issued a bulletin wherein he de-

clared "Pursuant to the proclamation of the President of the United States, I have assumed possession, control and supervision of the telegraph and telephone systems of the United States. . . . Until further notice the telegraph and telephone companies shall continue operation in the ordinary course of business through regular channels. Regular dividends heretofore declared and maturing interest on bonds, debentures and other obligations may be paid in due course, and the companies may renew or extend their maturing obligations unless otherwise ordered by the Postmaster General. All officers, operators and employees of the telegraph and telephone companies will continue in the performance of their present duties, reporting to the same officers as heretofore and on the same terms of employment." The proclamation of the president and the bulletin of the postmaster general have been put into effect and operation according to their terms and are still in force unrevoked and unmodified. The answer avers further that pursuant to this proclamation and bulletin the entire telephone system of the defendant including all its equipment, appurtenances, material, supplies and property of every description has been taken possession of by the government of the United States and is vested in the president and is controlled and operated exclusively by him, and that in consequence thereof the defendant has been divested of all its telephone system and all its property of every kind thereto appertaining and of all power, management and control over the same and retains only the legal title thereto. Just compensation for the supervision, possession, control and operation by the government of the United States of the defendant's telephone system in an amount satisfactory to it has been determined upon and awarded to and accepted by it, and an agreement has been entered into whereby the entire compensation to be received by it from July 31, 1918, to the end of the period of governmental control has been fixed and the amount of such compensation is not in any respect dependent upon the financial result of the operation of its system by the United States government and it has no pecuniary interest in the profits or losses resulting from such operation. The resolution of Congress of July 16, 1918, conferred ample power upon the president to determine the amount of just compensation to be paid to the owner for such possession, supervision, control and operation.

The defendant has pleaded that the United States, the president, the postmaster general, or some one or more of them, are necessary parties to this proceeding, and further that the pro-

ceeding is in substance against the United States and that the relief prayed for, which relates exclusively to toll rates for intrastate telephone service, will in effect restrain the United States in its control, possession and operation of the telephone system belonging to the defendant and formerly operated by it; and that it has not been since July 31, 1918, a common carrier or otherwise furnishing as a corporation any service for public use so as to be subject to the jurisdiction of the public service commission under St. 1913, c. 784.

It is conceded by both parties hereto that the resolution of Congress of July 16, 1918, was a constitutional exercise of the war powers of the federal government and that the proclamation of the president and the bulletin of the postmaster general have been pursuant thereto and are operative according to their terms.

The order of the public service commission here sought to be enforced purported to suspend the taking effect of substantial increases in the rates of toll charges to users of the telephone between places within the Commonwealth, in accordance with a "basic toll rate schedule" issued by an order of the Postmaster General of the United States.

It seems manifest from this narration of facts and recital of official documents that the United States is vitally interested and is alone concerned in the toll rates to be collected for telephone service over the system belonging to the defendant. The resolution of Congress of July 16, 1918, is most comprehensive in scope. It authorized the president to take full, complete, absolute and unqualified possession of the defendant's system. It seems to us that the proclamation of the president according to its true construction was coextensive in its sweep with the power conferred by the resolution. By express words the president took possession and assumed control of every part of each and every telephone system including all equipment and appurtenances and all materials and supplies. It would be difficult to employ words of broader reach or wider embrace than those in which the proclamation is couched. The phrase of the bulletin of the postmaster general is equally comprehensive in its grasp. The effect of these documents was not a mere public supervision of an operation by private owners. It was a complete assumption of absolute and complete possession and control to the exclusion of every private interest. No distinction is made by their terms between interstate service and intrastate service. Both alike are taken into the possession of the United States. Powers so extensive as were thus assumed can be exercised only

through various governmental agencies. But the right and power of the government are paramount and admit of no associates. In execution of the authority conferred by the resolution of July 16, 1918, just compensation for that which has been taken from the defendant has been awarded by the president and accepted by the defendant. Its interest has come to an end as to the matter of charges to be exacted for the service rendered by the United States for the use of the property of the defendant. The government has utterly supplanted the defendant in this field. The matter of rates is now the sole financial affair of the United States.

The reasonableness and amount of the rates to be charged for intrastate toll telephone service are of direct concern to the United States. As was said in *Wells v. Roper*, 246 U. S. 335, at 337, "That the interests of the government are so directly involved as to make the United States a necessary party and therefore to be considered as in effect a party, although not named in the bill, is entirely plain". In *Louisiana v. McAdoo*, 234 U. S. 627, at 629, are found these words "That the United States is not named on the record as a party is true. But the question whether it is in legal effect a party to the controversy is not always determined by the fact that it is not named as a party on the record, but by the effect of the judgment or decree which can here be rendered. *Minnesota v. Hitchcock*, 185 U. S. 373, 387." These statements but summarize the effect of earlier and exhaustive discussions of the principles applicable to states of facts so similar to those presented in the case at bar as to be indistinguishable. *Belknap v. Schild*, 161 U. S. 10, and cases there reviewed by Mr. Justice Gray. *Louisiana v. Garfield*, 211 U. S. 70, 77. *Oregon v. Hitchcock*, 202 U. S. 60. *Naganab v. Hitchcock*, 202 U. S. 473. The circumstance that the United States is not the owner of the system of the defendant but only rightfully in possession of it with the right to collect reasonable tolls is immaterial in this connection. "It has a property, a right *in rem*, . . . which, though less extensive than absolute ownership, has the same incident of a right to use." *International Postal Supply Company v. Bruce*, 194 U. S. 601, 606.

We think the case at bar is distinguishable from *Kaufman v. Lee*, 106, U. S. 196, *Tindal v. Wesley*, 167 U. S. 204, *School of Magnetic Healing v. McAnnulty*, 187 U. S. 94, *Philadelphia Company v. Stimson*, 223 U. S. 605, and similar cases where relief was granted against officers of the United States acting outside of their authority. There is nothing on this record to indicate

that the defendant, if and so far as it is an agency of the federal government, upon which we express no opinion, is exceeding the limits of power conferred by the resolution, proclamation and bulletin.

It is a fundamental principle of law that "The United States, like all sovereigns, cannot be impleaded in a judicial tribunal, except so far as they have consented to be sued". *Belknap v. Schild*, 161 U. S. 10, 16. *McArthur Brothers Company v. Commonwealth*, 197 Mass. 137. We are aware of no statute whereby the United States has consented either to become a party to rate fixing proceedings before the public service commission or before this court under St. 1913, c. 784. No such statute has been called to our attention.

It is the contention of the attorney-general in behalf of the public service commission that the resolution of Congress of July 16, 1918, reserved to the states the right to regulate intrastate rates to the same extent as that power existed before federal control. That contention is founded upon the final clause of the resolution, which is in these words: "*provided further*, that nothing in this Act shall be construed to amend, repeal, impair, or affect existing laws or powers of the states in relation to taxation or the lawful police regulations of the several states, except wherein such laws, powers or regulations may affect the transmission of government communications, or the issue of stocks and bonds by such system or systems." That proviso does not seem to us reasonably susceptible of being stretched by implication to include a consent to be impleaded in the state courts in such a proceeding as this. Such consent is not commonly inferable from such remote and equivocal phrase having direct and adequate reference to another matter. *Troy and Greenfield Railroad v. Commonwealth*, 127 Mass. 43. Therefore it appears to us unnecessary to consider or discuss the merits of the question whether the proviso of the resolution of July 16, 1918, under its reservation of "lawful police regulations of the several states" "justifies rate regulation by a State in the exercise of its police power", *Union Dry Goods Company v. Georgia Public Service Corporation*, 248 U. S. 372, 375, because we do not reach it. As was said by Mr. Justice Holmes in *Goldberg v. Daniels*, 231 U. S. 218, 221, 222, "There is another that comes before it in point of logic. The United States is . . . in possession. . . . It cannot be interfered with behind its back and as it cannot be made a party, this suit must fail".

Petition dismissed.

SUPREME COURT OF THE UNITED STATES.

No. 957. — OCTOBER TERM, 1918.

FREDERICK J. MACLEOD AND EVERETT E. STONE,
CONSTITUTING THE PUBLIC SERVICE COMMISSION OF MASSACHUSETTS, PETITIONERS, v. NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY.

ON WRIT OF CERTIORARI TO THE SUPREME JUDICIAL COURT OF THE STATE OF MASSACHUSETTS.

ARGUED MAY 5, 6, 1919. — DECIDED JUNE 2, 1919.
(250 U. S. 195.)

Mr. Chief Justice White delivered the opinion of the Court.

The petitioners, composing the Public Utilities Commission of the State of Massachusetts, filed their bill against the respondent to compel it to enforce certain telephone rates for intrastate business established in conformity to the state law and to forbid the putting into effect of conflicting rates fixed by the Postmaster General in a schedule by him established and the enforcement of which he had ordered.

On the petition and answers the case was reserved for the consideration of the Supreme Judicial Court where it was finally decided. The court in a lucid opinion, speaking through Mr. Chief Justice Rugg, having after full consideration reached the conclusion that the Postmaster General was empowered by the law of the United States to fix the schedule of rates complained of and that the Telephone Company was authorized by such law to put in effect and enforce such rates even though in doing so the rate established by the Public Service Commission of the state was disregarded, held that the suit was virtually one against the United States which the court was without power to entertain and entered a decree of dismissal for want of jurisdiction. But the form of the decree thus entered affects in no way the control and decisive result, upon every issue in the case, of the ruling this day announced in the *Dakota Central Telephone* case. It follows therefore that in this case our decree must be and is one of affirmance.

Affirmed.

Mr. Justice Brandeis dissents.

DAKOTA CENTRAL TELEPHONE COMPANY ET AL.
v. STATE OF SOUTH DAKOTA EX REL. PAYNE,
ATTORNEY GENERAL, ET AL.

ERROR TO THE SUPREME COURT OF THE STATE OF SOUTH DAKOTA.

No. 967. ARGUED MAY 5, 6, 1919. — DECIDED JUNE 2, 1919.

Mr. Chief Justice White delivered the opinion of the court.

Involving as this case does the existence of state power to regulate, without the consent of the United States, telephone rates for business done wholly within the State over lines taken over into the possession of the United States and which by the exercise of its governmental authority it operates and controls, it does not in principle differ from the *North Dakota Case* just announced (*Northern Pacific Ry. Co. v. North Dakota*, ante, 135) where it was decided that under like conditions the State had no such power as to railroad rates. We consider this case as far as may be necessary, by a separate opinion, however, because the authority under which the control was exerted is distinct and because of the assumption in argument that this distinction begets a difference in the principles applicable.

In January, 1919, the State of South Dakota on the relation of its Attorney-General and Railroad Commissioners sued the Dakota Central and other telephone companies doing business within the State to enjoin them from putting in effect a schedule of rates as to local business which it was alleged had been prepared by the Postmaster General and which it was averred the telephone companies were about to apply and enforce. It was charged that such rates were higher than those fixed by state authority and that the proposed action of the companies would be violative of state law, since the companies were under duty to disregard the action of the Postmaster General and apply only the lawful state rates. The duty of the relators, as state officers, to prevent such wrong was alleged, — a duty in which, it was further asserted, the State had a pecuniary interest springing from the expenditure which it was obliged to make for telephone services.

The companies answered, disclaiming all interest in the controversy on the ground that by contract, a copy of which with one of the defendant companies was annexed, their telephone

lines and everything appurtenant thereto had passed into the possession and control of the United States and were being operated by it as a governmental agency. The answer also alleged that any connection of the companies through their officials or employees with the business was solely because of employment by the United States. The purpose to enforce the rates fixed by the Postmaster General was admitted and it was averred that the suit was one over which the court had no jurisdiction because it was against the United States.

The case was heard on the bill, answer, exhibits and an admission by all the parties that the contract annexed to the answer was accurate and that a similar one had been made with all the other defendants.

Assuming that Congress had power to take over the telephone lines; that it had conferred that power upon the President; that the power had by the President been called into play conformably to the authority granted, and that the telephone lines were under the complete control of the United States, the court yet held that the State had the power to fix the local rates. In reaching this conclusion the court, assuming argumentatively that the right which the United States possessed gave at least the implied authority to fix all rates, nevertheless held that such power did not embrace intrastate rates because they had been carved out of the grant of power by Congress in conferring authority on the President. It was therefore decided that the President, the Postmaster General and those operating the telephone service under his authority were mere wrongdoers in giving effect to the rates fixed by the Postmaster General and in refusing to enforce the conflicting intrastate rates made lawful by state law. The proceedings to prevent this wrong, it was held, did not constitute a suit against the United States and the injunction prayed was granted.

The appellees do not confine their contention to the question of statutory construction below decided. On the contrary, they press questions of power which the court below assumed and did not pass upon, and insist upon a construction of the statute contrary to that which the court below took for granted as a prelude to the question of construction upon which it based its conclusion.

We must dispose of the issues thus insisted upon before testing the soundness of the interpretation of the statute upon which the court below acted, and for the purpose of considering them as

well as the question of construction which the court below expressly decided, we state the case.

On the 16th of July, 1918, Congress adopted a joint resolution (40 Stat. 904, c. 154), providing: —

That the President during the continuance of the present war is authorized and empowered, whenever he shall deem it necessary for the national security or defense, to supervise or to take possession and assume control of any telegraph, telephone, marine cable, or radio system or systems, or any part thereof, and to operate the same in such manner as may be needful or desirable for the duration of the war, which supervision, possession, control or operation shall not extend beyond the date of the proclamation by the President of the exchange of ratifications of the treaty of peace: *Provided*, that just compensation shall be made for such supervision, possession, control, or operation, to be determined by the President; . . .

Provided, further, That nothing in this Act shall be construed to amend, repeal, impair or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications, or the issue of stocks and bonds by such system or systems.

Six days thereafter, on the 22d of July, the President exerted the power thus given. Its exercise was manifested by a proclamation which, after reciting the resolution of Congress, declared: —

It is deemed necessary for the national security and defense to supervise and to take possession and assume control of all telegraph and telephone systems and to operate the same in such manner as may be needful or desirable;

Now, therefore, I, Woodrow Wilson, President of the United States, under and by virtue of the powers vested in me by the foregoing resolution, and by virtue of all other powers thereto me enabling, do hereby take possession and assume control and supervision of each and every telegraph and telephone system, and every part thereof, within the jurisdiction of the United States, including all equipment thereof and appurtenances thereto whatsoever and all materials and supplies.

It is hereby directed that the supervision, possession, control, and operation of such telegraph and telephone systems hereby by me undertaken shall be exercised by and through the Postmaster General. . . . (40 Stat. 1807.)

The proclamation gave to the Postmaster General plenary power to exert his authority to the extent he might deem desirable through the existing owners, managers, directors or officers

of the telegraph or telephone lines, and it was provided that their services might continue as permitted by general or special orders of the Postmaster General. It was declared that "from and after twelve o'clock midnight on the 31st day of July, 1918, all telegraph and telephone systems included in this order and proclamation shall conclusively be deemed within the possession and control and under the supervision of said Postmaster General without further act or notice."

Under this authority the Postmaster General assumed possession and control of the telephone lines and operated the same. On the 31st day of October, 1918, the President through the Postmaster General, in the execution of the duty imposed upon him by the resolution of Congress to make compensation, concluded a contract with the telephone companies of the most comprehensive character covering the whole field while the possession, control and operation by the United States continued. By its terms stipulated amounts were to be paid as consideration for the possession, control and operation by the United States and the earnings resulting from such operation became the property of the United States. Although concluded in October, 1918, by stipulation the contract related back to the time when the President took over the property.

Following this, by authority of the President, the Postmaster General fixed a general schedule of rates and it was the order to put this schedule in effect which gave rise to the suit, the trial, and the resulting judgment which we have now under consideration.

That under its war power Congress possessed the right to confer upon the President the authority which it gave him we think needs nothing here but statement, as we have disposed of that subject in the *North Dakota Railroad Rate Case*. And the completeness of the war power under which the authority was exerted and by which completeness its exercise is to be tested suffices, we think, to dispose of the many other contentions urged as to the want of power in Congress to confer upon the President the authority which it gave him.

The proposition that the President in exercising the power exceeded the authority given him is based upon two considerations. First, because there was nothing in the conditions at the time the power was exercised which justified the calling into play of the authority; indeed, the contention goes further and assails the motives which it is asserted induced the exercise of the power. But as the contention at best concerns not a want of power, but

a mere excess or abuse of discretion in exerting a power given, it is clear that it involves considerations which are beyond the reach of judicial power. This must be since, as this court has often pointed out, the judicial may not invade the legislative or executive departments so as to correct alleged mistakes or wrongs arising from asserted abuse of discretion.

The second contention, although it apparently rests upon the assertion that there was an absence of power in the President to exert the authority to the extent to which he did exert it, when it is correctly understood amounts only to an asserted limitation on the power granted based upon a plain misconception of the terms of the resolution of Congress by which the power was given. In other words, it assumed that by the resolution only a limited power as to the telephone lines was conferred upon the President, and hence that the assumption by him of complete possession and control was beyond the authority possessed. But although it may be conceded that there is some ground for contending, in view of the elements of authority enumerated in the resolution of Congress, that there was power given to take less than the whole if the President deemed it best to do so, we are of opinion that authority was conferred as to all the enumerated elements and that there was hence a right in the President to take complete possession and control to enable the full operation of the lines embraced in the authority. The contemporaneous official steps taken to give effect to the resolution, the proclamation of the President, the action of the Postmaster General under the authority of the President, the contracts made with the telephone companies in pursuance of authority to fix their compensation, all establish the accuracy of this view, since they all make it clear that it was assumed that power to take full control was conferred and that it was exerted so as to embrace the entire business and the right to the entire revenues to arise from the act of the United States in carrying it out. Indeed, Congress in subsequently dealing with the situation thus produced would seem to have entertained the same conception as to the scope of the power conveyed by the resolution and dealt with it from that point of view. Act of October 30, 1918, c. 197, 40 Stat. 1017.

This brings us to the proposition upon which the court based its conclusion, that is, that although complete possession, exclusive control, and the right to all the revenues derived from the operation of the business were in the United States as the result of the resolution, the proclamation, and the contracts, yet as to intrastate earnings, the state power remained to "encumber" the

authority of the United States, because that situation necessarily resulted from the terms of the congressional resolution.

This superficially was based on an interpretation of the resolution, but in substance was caused by the application to the clause of the resolution interpreted, of the erroneous presumption as to the continuance of state power dealt with in the *North Dakota Case*. Let us see if this is not necessarily so. The provision dealt with was the proviso of the resolution which in the first place saved "the lawful police regulations of the several States" and therefore subjected the control of the United States to the operation of such power; and in the second place prohibited the States during the United States control from exerting authority as to the issue of stocks and bonds.

It was conceded that the words "police power" were susceptible of two significations, a comprehensive one embracing in substance the whole field of state authority and the other a narrower one including only state power to deal with the health, safety and morals of the people. Although it was admitted that the reservation, considered intrinsically, was not susceptible of being interpreted in the broader of the two lights, it was held that it was necessary to so interpret it because of the clause of the proviso prohibiting the States from legislating concerning the issue of stocks and bonds by the companies during the United States control. The reasoning was this: It was inconceivable, it was said, that the subject, stocks and bonds, should have been withdrawn from state control by an express prohibition unless that subject would have been under state control in the absence of the prohibition, a result which could only exist by giving the saving clause as to police power its widest significance. But the fact that the rule of construction applied had the result of incorporating in the act of Congress unlimited state authority merely as the result of a prohibition by Congress against the exertion of state power in a specific instance, in and of itself admonishes of the incorrectness of the rule. But its want of foundation is established by two further considerations: (1) because it causes the provision as to stocks and bonds, which was plainly enacted to preserve the financial control of the United States over the corporations, to limit if not destroy such control; (2) because by converting the prohibition against state power into an affirmative and comprehensive grant of that power, it so interprets the act as to limit the grant of authority which the act beyond doubt gave to the United States. These considerations not only show the mistake of the interpretation, but also point out the con-

fusion and conflict which must necessarily arise from giving effect to the mistaken presumption of the continuance of state power to which we have previously referred.

Inherently the power of a State to fix rates to be charged for intrastate carriage or transmission is in its nature but derivative, since it arises from and depends upon the duty of those engaged in intrastate commerce to charge only reasonable rates for the services by them rendered, and the authority possessed by the State to exact a compliance with that duty. Conceding that it was within the power of Congress, subject to constitutional limitations, to transplant the state power as to intrastate rates into a sphere, where it, Congress, had complete control over telephone lines because it had taken possession of them and was operating them as a governmental agency, it must follow that in such sphere there would be nothing upon which the state power could be exerted except upon the power of the United States, that is, its authority to fix rates for the services which it was rendering through its governmental agencies. The anomaly resulting from such conditions adds cogency to the reasons by which in the *North Dakota Case* the error in presuming the continuance of state power in such a situation was pointed out and makes it certain that such a result could be brought about only by clear expression or at least from the most convincing implication.

This disposes of the case, but before leaving it we observe that we have not overlooked in its consideration the references made to proceedings in Congress concerning the resolution at the time of its passage, and further, that we have also considered all the suggestions made in the many and voluminous briefs filed on behalf of various state authorities and individuals having interests in suits pending elsewhere, concerning the construction of the resolution. In saying this, however, we must except suggestions as to want of wisdom or necessity for conferring the power given, or as to the precipitate or uncalled for exertion of the power as conferred, from all of which we have turned aside because the right to consider them was wholly beyond the sphere of judicial authority.

In view of our conclusion we shall in this case, as we did in the previous one and for the reasons therein stated, content ourselves with reversing the judgment below upon the merits with directions for such further proceedings as may be not inconsistent with this opinion.

And it is so ordered.

Mr. Justice Brandeis dissents.

APPENDIX.

APPENDIX.

SPECIAL REPORTS AND ORDERS RELATING TO RAILROADS, STREET RAILWAYS, ELECTRIC RAILROADS, STEAMBOATS, TELEPHONE, TELEGRAPH AND EXPRESS COMPANIES.

SUBURBAN FARES.

Notice of United States Railroad Administration relative to proposed changes in commutation rates on railroads in Boston and vicinity.

HON. WALKER D. HINES, *Director-General of Railroads, Washington, D. C.*

DEAR SIR:— Pursuant to notice issued by the United States Railroad Administration, public hearings were held at the State House, Boston, on October 6 and 11, for the consideration of certain proposals made by the traffic representatives of the three principal Massachusetts railroads for a readjustment of existing rates for 12-ride tickets in the suburban area of Boston, and the elimination of certain other special forms of commutation tickets which are now available for railroad transportation within the Commonwealth. These hearings were conducted on behalf of the Director-General of Railroads by Hon. Charles A. Prouty, Director of the Division of Accounting of the United States Railroad Administration, with the assistance of the members of the Massachusetts Public Service Commission, who were courteously requested to participate in the hearings and to confer with the Railroad Administration in reaching a decision. In compliance with that request, we beg to submit for your consideration the following report.

At the hearings, which were largely attended, the railroad companies were represented by their counsel and certain operat-

ing officials, and over seventy appearances were entered in behalf of the remonstrants by mayors, boards of selectmen, city and town counsel, members of the legislature and representatives of boards of trade, local improvement associations and other organizations. Owing to the probable termination of federal control of railroad companies on December 31 of this year, and the public announcement by the Director-General of Railroads that any further proposals for general rate increases should be deferred until they can be acted upon by the regular rate-making authorities, the case was not heard or tried as an ordinary rate proceeding, but as a traffic problem, growing out of alleged congestion of passenger traffic in the Boston terminal. Under that ruling all proposals for the readjustment of rates outside of the Boston suburban area were excluded from consideration, and the question of the adequacy of existing rates to meet the revenue requirements of the companies did not properly come within the scope of the hearing. The only remaining issue, therefore, is whether the congestion on suburban passenger trains at the Boston terminal is such as to prevent the railroad companies from furnishing safe, convenient and dependable service, and if so, to what extent increases in suburban passenger fares are necessary in order to relieve this congestion.

The evidence and arguments submitted in the case are available in the stenographic record, and the exhibits filed by the companies, which you have doubtless received. Without attempting to review the evidence in detail, we believe that the following facts are clearly established: —

1. There is no undue congestion at the terminals of the Boston and Maine and Boston and Albany railroads, and no special measures of relief are necessary.

2. The same conditions are true on the New Haven railroad, except during the rush-hour period from 5 to 6 P.M. which shows an abnormal increase in traffic. Based upon a six-days' traffic count, it appears that the average number of passengers handled daily by the New Haven road during this rush-hour period amounted to 7,898 in September, 1918. In December, 1918, when the 8-cent fares on the Boston Elevated railway were put into effect, this number increased to 11,650, and in September of this year, when the 10-cent fares were in effect, the number had further increased to 14,612. Within the past year, therefore, this rush-hour traffic has increased by about

83 per cent, while the traffic for the entire day has increased during the same period by less than 28 per cent.

3. The number of passenger trains operated during this rush-hour period has not been increased or decreased since 1913, except for one additional train which the company has added in its last time card. During the past year, however, the number of cars on a total of 67 trains operated outbound between 5 and 6 P.M. has been increased from 271 to 337 or by about 24 per cent. Even with this additional equipment, the number of rush-hour passengers is considerably in excess of the seating capacity. After leaving Boston the passengers standing, number on the average, about 20 per cent of the total, although on nearly all trains there are some seats unoccupied. These conditions are not peculiar to Boston, but exist to a greater or less degree at all railroad terminals during the rush-hour period.

4. The congestion is most acute on the train leaving Boston on the Providence division at 5.31 P.M. This condition, which is caused largely by the additional passenger load taken on at the Back Bay station in Boston, continues for only four minutes, as nearly three hundred passengers leave the train at the next stop. If it is deemed necessary to relieve this congestion, we are advised by our inspection department that this can be done by operating another train on this division.

5. While it is possible under emergency conditions, as was disclosed during the Boston Elevated strike in July last, for the New Haven road to carry nearly double the number of passengers now carried, no substantial increase in the number of cars or trains operated from the South Station between 5 and 6 P.M. can be made without seriously embarrassing other train movements.

6. Under directions of the Commission, the officials of the company have endeavored, to the best of their ability, but not with entire success, to stop the practice of riding on car platforms. Counts taken by our inspection department at the South Station on October 7, 8, and 9 showed a daily average of about 250 passengers standing on platforms and steps of the 67 trains operated, although there was plenty of available room inside the cars. Observation shows that many short-distance passengers prefer to stand on the rear cars outbound and the forward cars inbound, rather than occupy available seats in other portions of the train. This is a condition which has always existed and will continue to exist unless some practical means

not yet discovered can be found to force passengers inside the cars. With the advent of colder weather, however, the problem of platform riding will be almost entirely eliminated.

7. Some increase in riding during the Christmas holiday period may be anticipated, but otherwise the company's claim of a seasonal peak in traffic during the winter months is without foundation.

8. The operation of the longer trains now required to handle suburban traffic may tend somewhat to slow up train movements. In the winter months, owing to weather conditions and the necessity of handling the peak load after dark, train delays, with consequent overloading, are likely to become more frequent.

9. The traffic problem is being handled efficiently by the operating officials of the company, and up to the present time the Commission has not received a single complaint on account of delays or irregularities of service resulting from congestion in the terminals. While some measures for the relief of existing congestion may be desirable for the improvement of the general railroad service, especially during the winter months, the conditions disclosed do not warrant any radical or general change in existing commutation fares in the Boston suburban district.

10. The increase of rush-hour traffic on the New Haven road is almost wholly confined to passengers using the 5-trip tickets which are available to all stations within five miles of the Boston terminal. This condition is largely due to the fact that these tickets are sold at the rate of 5.6 cents per ride, while the rates on the Boston Elevated railway have been advanced to 10 cents.

In the light of these facts we have considered what action should, in our judgment, be taken upon the specific proposals presented by the traffic representatives of the railroads. These proposals were as follows: —

1. A minimum fare of 10 cents per ride in the territory served by the steam roads which is also served by the Boston Elevated Railway Company. If the Boston Elevated Railway Company later reduces its present fare of 10 cents, corresponding reduction to be made by the steam railroads, but the minimum rates to be not lower than those proposed in the following paragraphs:

2. An advance of 25 per cent on 12-trip ticket fares between Boston and points within the 15-mile zone.

3. The elimination of the fares for the open form of 25-trip tickets between Boston and stations within the 15-mile zone.

4. The substitution on the New Haven road of 12-trip ticket fares, Boston to points within the 15-mile zone, in lieu of the present 5-trip ticket fare.

5. The elimination of all other trip ticket fares on the New York, New Haven and Hartford railroad and Boston and Maine railroad (with the exception of 25-ride family tickets on the Boston and Maine railroad) and the substitution on the New York, New Haven and Hartford railroad of a 25-ride family ticket fare with a 90-day limit, the same as is in effect now on the Boston and Maine railroad and on the same basis of fares, with a minimum of 10 cents per ride, on both the Boston and Maine and New Haven roads.

6. The elimination of all open form 25-trip ticket fares in effect between stations other than Boston on the Boston and Albany railroad.

The first proposal is that the railroad fare should be made uniform with the street railway fare within the territory which is served jointly by the railroads and the Boston Elevated Company. Under that scheme the minimum railroad fare within the Boston suburban district would be immediately increased to 10 cents, and would vary from time to time so as to meet any increase or decrease in the fare charged by the Boston Elevated Company. This proposal amounts in effect to saying that the railroad companies serving Boston should no longer base their rates upon their own legitimate revenue requirements but upon the financial and operating conditions of an outside company performing a wholly different kind of service. It is hardly necessary to say that no recognition should be given to any such extraordinary theory, and that the fare charged by the Boston Elevated Company should in no way influence the disposition of the present case. Viewed on its merits, the proposal to establish a minimum commutation fare of 10 cents in the Boston suburban district is supported neither by pertinent evidence in this proceeding nor by railroad practice in any other part of the country and should be disallowed in this proceeding.

Proposals 5 and 6 involve fare adjustments outside of the Boston suburban area which, as already pointed out, were expressly excluded from consideration at the hearing. These proposals, therefore, cannot properly be approved in the present proceeding.

Proposal 3 provides for the elimination of the fares for the open-form 25-trip tickets between Boston and stations within the 15-mile zone. These tickets are now issued to 99 out of 198 points, or to just one-half of the stations where the 12-ride

tickets are available. To 7 of these points the rate per ride on the 25-trip tickets is higher than on the 12-trip tickets, but to the other 92 points the rate averages about 5 per cent lower than on the 12-ride ticket. While the elimination of these tickets would be likely to affect traffic to a slight extent only, there would seem to be no sound reason for preserving these rate discriminations and irregularities, as suitable provision for this class of travel is made through the sale of the 12-ride tickets.

Proposal 2 provides for a general advance of 25 per cent on all 12-trip tickets within the Boston suburban district. In support of this claim, counsel for the companies offered to show that the present rate for this form of suburban travel was not remunerative, that these rates were lower than those charged for similar tickets in other portions of the country, and that an advance of 25 per cent in these rates was needed in order to compensate the companies in part for increased costs of operation. However pertinent such evidence might be in an ordinary rate case, it was ruled out as being extraneous to the present proceeding. It may, however, be remarked in passing that under present conditions where 83 per cent more traffic than at any time in recent years is being handled by the same number of trains during the rush-hour period, it is reasonable to surmise that this form of traffic must at any rate be more nearly remunerative than it has been at any time heretofore.

Under the limitations prescribed in this proceeding such a general rate advance must, however, be justified, if at all, by existing traffic conditions. Upon the evidence presented, as summarized above, it appears that the existing congestion at the Boston terminals is confined to traffic moving to points within five miles of Boston on the New Haven lines during one hour in the day only. There would seem, therefore, to be no valid reason for a general increase in fares which would apply not only to the remainder of the New Haven suburban territory, but also to the Boston and Maine and Boston and Albany lines, where no conditions causing congestion are shown to exist.

The only remaining proposal is for the substitution on the New Haven road of 12-trip ticket fares in lieu of the present 5-trip ticket fares between Boston and points within the 15-mile zone.

As we have already stated, the existing congestion at the Boston terminals is almost wholly due to the increase in the number of passengers using the 5-trip tickets on the New Haven

lines. While an increase in the fares paid by these passengers would undoubtedly decrease travel and thus relieve the present congestion, it is extremely doubtful if congestion alone is a sufficient ground for an advance in fares. Railroads are public service corporations. They are under obligations to serve, upon reasonable terms, all of the public who apply for the service. If the fare is reasonable under all the circumstances, the obligation rests on the railroads to make suitable provision so far as they reasonably can for all persons who apply to be transported for that fare. If the rates charged for these 5-trip tickets appeared to be normal and reasonable rates, the New Haven company might reasonably be required to meet the problem of congestion by an expansion of its terminal facilities rather than by an increase in rates. These 5-trip ticket rates, however, are merely a survival of rates established by voluntary action of the company many years ago, and not as the result of any statute or order of the Commission. They are inconsistent with the 12-trip ticket rates established by statutory authority in the remainder of the suburban district and are, on their face, as compared with the rates charged by the other railroads for like distances, unreasonable and discriminatory. If the company wishes to withdraw the preferential rates now given to the residents of the Dorchester district, and to charge them the same rates as are now paid for like distances by all other residents of the metropolitan district, it is clearly within its right in so doing, irrespective of any question of congestion. Under ordinary circumstances it might be claimed that a rate readjustment of this character should await the termination of federal control and action by the regular rate-making authorities. As such a change of rates would, however, incidentally tend to relieve present congestion and to postpone the need of expensive terminal improvements, it seems to us no valid objection can be offered to the present elimination of the 5-trip tickets and the substitution of 12-trip tickets at the regular rates prevailing in the remainder of the Boston suburban district.

The present 12-trip tickets were established under the provisions of Chapter 649 of the Acts of 1908, which provided for the sale of 12-trip commutation tickets between Boston and all railroad stations within 15 miles of railroad terminals "at a price not exceeding the average rate for each trip which was charged between said points for the 25-ride commutation tickets in use on the first day of January in the year nineteen hundred

and eight," and provided also that "so far as practicable the rates of fare on all roads for like distances from their terminal stations shall be equal." As the tickets on the New Haven lines to points within five miles of Boston were, prior to 1908, 5-trip tickets and not 25-trip tickets, the statute did not apply, and no 12-ride tickets to these points have been established.

This statute, as interpreted by the Board of Railroad Commissioners, when approval was given to the specific rates thereby established, did not provide for a complete equalization of the Boston suburban rates, but contemplated that differences in rates applicable to different stations under the old 25-ride ticket might to some degree be reflected in the rates approved by the Board under that statute. For that reason, the existing rates for 12-trip tickets to certain stations on the Boston and Maine railroad appear to be lower than the standard rates for similar distances, both on the Boston and Maine and the Boston and Albany lines. In constructing a new schedule of 12-trip ticket rates to New Haven points, where such rates are not now effective, the New Haven Company claims that the Boston and Albany rates, which are free from the inequalities shown by the Boston and Maine rates, should be taken as the basis, and that the Boston and Maine rates, which are lower to certain equidistant points, should be disregarded.

That contention would have merit if we were now making a general readjustment of the 12-trip ticket rates on all roads without reference to pre-existing fare conditions. But until such readjustment is made, it seems to us that equal recognition should be given to all 12-trip ticket rates which have been approved by the Railroad Commission as being in conformity with the 1908 statute, and that in the consistent application of the principle embodied in that statute of making the rates of fare, so far as practicable, equal on all roads for like distances from their terminal stations, the 12-ride ticket rates for the New Haven railroad should be established at the average rates charged for such tickets to all equidistant points within the 15-mile zone.

Attached hereto is a memorandum prepared by the Rate and Tariff Department of the Commission upon that basis, which shows the scale of rates, graduated according to distance, which would be applicable for 12-ride tickets on the New Haven lines to and from points within five miles of Boston.

Under that scale the rate per ride to stations on the New Haven road within three miles of Boston would be $5\frac{1}{2}$ cents or

1-10 of a cent less than the present rate. To stations beyond three miles this rate would be increased by successive steps according to distance. The following table shows the cost of the 12-trip tickets and the rate per ride, as computed by the New Haven railroad and by the Commission, for all stations where 5-trip tickets are now sold at the uniform rate of 28 cents or 5.6 cents per ride:—

STATION.	Miles.	12-TRIP TICKETS.			
		PRICE OF TICKET.		RATE PER RIDE.	
		New Haven Basis (Cents).	Com-mission Basis (Cents).	New Haven Basis (Cents).	Com-mission Basis (Cents).
Dudley Street,	2.36	68	66	5.6	5.5
Crescent Avenue,	2.38	68	66	5.6	5.5
Roxbury,	2.77	68	66	5.6	5.5
Bird Street,	2.82	68	66	5.6	5.5
Savin Hill,	2.97	68	66	5.6	5.5
Heath Street,	3.26	83	77	6.9	6.4
Mt. Bowdoin,	3.62	88	77	7.3	6.4
Harrison Square,	3.64	88	77	7.3	6.4
Boylston Street,	3.87	94	87	7.8	7.2
Fields Corner,	4.00	94	87	7.8	7.2
Harvard Street,	4.14	94	87	7.8	7.2
Popes Hill,	4.28	94	95	7.8	7.9
Jamaica Plain,	4.43	94	95	7.8	7.9
Shawmut,	4.58	94	95	7.8	7.9
Dorchester,	4.67	99	95	8.2	7.9
Neponset,	4.94	99	99	8.2	8.2
Ashmont,	5.15	99	99	8.2	8.2

In addition to the 5-trip tickets which are sold at the rate of 28 cents to the stations named above, 5-trip tickets at varying rates are also sold from Boston to certain other New Haven stations within the 15-mile zone. As 12-trip tickets are available to all those points, these miscellaneous 5-trip tickets, which stand on much the same basis as the open form 25-ride tickets on the Boston and Maine and Boston and Albany lines might, like those tickets, be eliminated. We believe that if the 12-trip tickets remain available without increase in rate, between Boston and all stations in the 15-mile zone, no serious hardship would result from the elimination of the various special forms of tickets

which apply from Boston to certain suburban points only, and which may properly be regarded as discriminatory against other points not equally favored. Attention should also be called to the fact that monthly tickets are available within the 15-mile zone at a rate per ride based upon the use of 52 out of the 60 coupons furnished, varying from 6.6 cents to 14.6 cents. For regular commuters this form of ticket affords a somewhat lower rate to certain stations, amounting at the maximum to approximately 2 cents a ride at the outer limits of the suburban zone.

The elimination of the special tickets referred to above is likely to decrease, or at any rate to check the increase in suburban railroad travel, especially to New Haven points within five miles of Boston, as a larger investment is required for the purchase of 12-trip tickets, and as the rates per ride beyond three miles are substantially increased. While complete immunity from accident, like perfection of service, has never existed and cannot be guaranteed, no accident has occurred, so far as we are aware, which is attributable to congestion in the Boston terminals. From our general knowledge of traffic conditions at these terminals, as well as from the evidence presented at the hearings, we are satisfied that the changes we have suggested will provide sufficient relief of present congestion, and will make it possible, with proper supervision by the officials of the company and the inspection department of the Commission, for passenger traffic to be handled in and through the Boston terminals with reasonable safety and efficiency.

Respectfully submitted,

FREDERICK J. MACLEOD,
EVERETT E. STONE,
HENRY C. ATTWILL,

OCTOBER 24, 1919.

[P. S. C. 2482]

Public Service Commission.

HOLYOKE FARES.

Notice of the Holyoke Street Railway Company of proposed changes in rates of fare for passengers upon its railway.

WILLIAM H. BROOKS, counsel L. D. PELLISSIER, president and general manager THOMAS J. LYNCH, city solicitor JOHN D. RYAN, mayor MICHAEL B. HOULIHAN, city solicitor DANIEL J. COAKLEY, mayor	} } } } } }	for Holyoke Street Railway Company. for City of Holyoke. for City of Chicopee.
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On August 21, 1919, the Holyoke Street Railway Company filed with the Commission a new schedule of rates upon its railway to become effective September 20, 1919. Upon complaint, a hearing was held upon the proposed schedule, and pending adjudication it was suspended until November 1, 1919.

Under the present fare scheme, the system has been divided into eleven fare zones, the central zone embracing the greater part of the city of Holyoke and certain populous centers, such as Fairview and Willimansett, outside the confines of the city. The present fare in the Central zone is 7 cents, with free transfer privileges enabling passengers to ride to and from all points within that zone for a single fare, and the fare in the outlying zones is 5 cents. Tickets are available which permit passengers to ride from any point in the central zone to any point in the next adjacent zone for 10 cents, and on certain lines lap-over privileges are also allowed.

Under the pending tariff, the central zone is somewhat contracted in area, the fare within that zone is fixed at 6 cents without transfer privileges, the fare in the outside zone is increased from 5 cents to 6 cents and present transfers, lap-over privileges and reduced rate tickets are eliminated, with the exception of scholars' tickets, which are to be sold at one-half the regular cash rate. In the rearrangement of zones the division line between the central zone and adjacent zones is drawn nearer to the center of the city at the following points: —

1. On the Chicopee-Chicopee Falls lines, the new fare limit will be at the junction of Chicopee and Meadow streets in Williman-

sett, instead of at the junction of Pendexter avenue and Mary street.

2. On the West Springfield line, the new fare limit is placed at Prew avenue, instead of at the Ingleside school.

3. On the Westfield line, the proposed fare limit is at the corner of Cherry street and Hillside avenue, instead of at the corner of Cherry street and Jarvis avenue.

4. On the Fairview line, the fare limit is to be at Hartford street and Ludlow road in South Hadley Falls, instead of at the end of the line.

The company contends that the changes proposed in existing zones and rates of fare are necessary to meet the increased cost of operation due to an increase in the wages of its employees, resulting from the recent arbitration award. This award was made retroactive, and provided for a graduated increase, the full amount of which became effective June 1, 1919. The average increase under the new wage scale amounts to about 16 cents per hour, or substantially 34 per cent of the total payroll. Officials of the company estimated that this increase in wages alone would increase the operating expense by about \$90,000 a year.

The company submitted a statement showing the financial results of operation for the year ending December 31, 1919, based upon the actual figures for the first eight months and an estimate for the remaining four months upon the assumption that the increases in revenue and expenses shown during the first eight months would continue at the same ratio throughout the year. In that statement depreciation was figured at the amount which, in the judgment of the company, should have been provided, rather than on the basis of the actual allowances made, and the various expense accounts for the entire year were readjusted in conformity with the present wage scale. After an examination of the company's operating accounts, the engineering department of the Commission has reported that the allowance for depreciation, as estimated by the company, should be decreased by approximately \$2,000, but, with that exception, the estimate submitted by the company appears to be accurate. Upon that basis the income of the company for the present year, under existing rates, would be insufficient by \$9,371 to meet its operating expenses and fixed charges. In order to make up this deficit and to provide a 6 per cent return on the legitimate stock investment it would be necessary for the company to obtain an additional annual revenue of about \$106,000.

The company also submitted a statement, based on traffic counts taken on the different lines for certain stated periods, which shows the estimated increase in revenue on the various lines under the new schedule. This increase, according to the company's estimates, would amount in the aggregate to \$110,000 a year. In making this estimate, certain allowances have been made for decrease of travel where there is a relatively large increase in existing fares through the contraction of the inner zone or the abolition of existing transfer privileges, but no allowance has been made for any increase in riding, due to the decrease of fare from 7 cents to 6 cents for passengers riding to the center of the inner zone, or for any decrease in riding in the outer zones, as the result of the increase of fare from 5 cents to 6 cents. Such allowances, however, if made, would tend largely to offset one another.

In making estimates of this character, it must be borne in mind that the results will be largely influenced by conditions affecting the general riding habit. The results of operation on this and other street railways during recent months has shown a general upward trend of traffic. If this tendency should continue, the actual gain in revenue might be higher than the company's estimate; but if, on the other hand, conditions should become such as to affect traffic adversely, the company's receipts would be likely to fall below the estimate submitted. Estimates of future traffic, no matter how carefully made, are therefore bound to be largely speculative in character. So far, however, as it is possible to forecast the results of the proposed rate changes in advance of an actual test of their operation, it does not appear that the increase in revenue resulting from the pending tariff, with the modifications hereinafter provided for, will be in excess of the company's legitimate requirements.

While no disposition was shown on the part of the remonstrants to challenge the substantial accuracy of the company's estimate of additional revenue requirements, certain objections were offered to the fare plan proposed by the company, especially upon the ground that the rearrangements of fare zones would result in a disproportionate increase in the rates now paid by certain communities and groups of riders. The company's plan does undoubtedly produce that result, but the same may be said of every zone system of fares which seeks to obtain additional revenue by shortening the zones instead of increasing the unit of fare. If additional revenue requirements are to be met, however, the only other alternative is a flat increase in

fares, which may, in turn, impose a disproportionate burden on the short-haul riders. After much discussion and experiment it is still an open question as to which plan possesses the balance of advantage. That question can only be determined by the local traffic conditions in the territory affected.

The initiative with respect to the plan which should be adopted rests under the law with the company. The company is in the most favorable position to obtain an accurate and intimate knowledge of traffic conditions, and the co-operation of the public is so essential to its successful operation, that it is bound by self-interest, not only to make provision for its revenue requirements, but to accomplish that result through such a rearrangement of existing fares as will, in its judgment, be least likely to provoke serious protest from its patrons. For that reason, proper weight should be given to the judgment of the operating officials of the company, and the Commission would not be warranted in disallowing the plan which they have proposed unless it can be shown that some alternative plan will yield the needed increase in revenue with less burden to the riding public.

If an alternative plan should be adopted, based upon the retention of existing zones and transfer privileges, the necessary revenue could probably be obtained by adopting the proposed rate of 6 cents in the outer zones and by increasing the rate in the inner zone from 6 cents to 8 cents. It is doubtful, however, if such an alternative plan would on the whole be preferred by the patrons of the company, and there is danger also that the estimated gain in revenue might not be realized on account of increased jitney competition. We are inclined, therefore, to believe that the general plan submitted by the company with the modifications hereinafter referred to, should be approved, at least for a trial period.

The most serious objection to the practical operation of that plan is the large and burdensome increase of fares for residents of the Fairview district who are employed in the mills, and who would, under the company's tariff, be obliged to pay a fare of 18 cents to South Holyoke and a fare of 24 cents to Chicopee Falls. In order to meet that situation, the company should run a special car or cars between Fairview and Berkshire street in South Holyoke, and between Fairview and Chicopee Falls, such car or cars to be run at such time in the morning and evening as will best accommodate patrons of the road living in Fairview

and working in South Holyoke and Chicopee Falls. Under that arrangement the fare on these cars would be 12 cents from Fairview to South Holyoke, and 18 cents from Fairview to Chicopee Falls.

The company's tariff should also, in our judgment, be so modified as to permit passengers on through Westfield cars to ride in either direction between the isolation hospital and City Hall for a single 6-cent fare.

A request was made to have the fare limit on the Westfield line extended about a quarter of a mile beyond the present fare limit at the Holyoke-Westfield line to Lambert's pond, where there is a small community consisting mainly of summer residents. As the line of the Holyoke company terminates at the Westfield town line, and as Lambert's pond is on the line of the Springfield street railway, the arrangement suggested would be possible only through the establishment of a joint fare with the Springfield Company and in a proceeding to which that company is a party. While no action on that matter can be taken in the present case, it is open to the complainants to file a new petition, asking for the establishment of such a joint fare.

Upon the amendment of the tariff now under suspension by filing a supplement to said tariff, providing for the modifications prescribed above, said tariff so amended will be approved by the Commission and permitted to take effect on short notice. Owing to the difficulty of making an accurate determination in advance of the revenue results under this new schedule, and to the possibility that further modifications in the fares or fare limits may prove desirable in the light of conditions disclosed in practical operation, it is to be understood that the rates hereby approved are subject to revision upon the petition of either party at the end of a six months' trial period.

ORDER.

It appearing that on August 21, 1919, the Holyoke Street Railway Company filed with the Commission, effective September 20, 1919, a local passenger tariff numbered M. P. S. C. No. 5, cancelling tariff M. P. S. C. No. 4, and that the rates and charges prescribed in said tariff have been suspended by successive orders of the Commission until November 1, 1919;

And it further appearing that a full investigation of the matters and things involved in said tariff has been had, and that the Commission on the date hereof has made and filed a report

containing its findings of fact and conclusions thereon, which said report is herein referred to and made a part hereof, —

It is

Ordered, That the Holyoke Street Railway Company be hereby notified that said company, upon filing with the Commission a supplement to said tariff, providing for the modifications therein which are specified in the said report, may, under this authority, and for the reasons stated in said report, make said tariff as amended by said supplement, effective upon not less than two days' notice to the Commission and the general public, by filing and posting in a conspicuous manner in its waiting rooms and cars a printed notice which shall plainly state the changes proposed to be made in the fares now in force and the time when such changes shall take effect.

It is

Further ordered, That the Holyoke Street Railway Company be and is hereby notified and required to cancel the rates and charges stated in said tariff, filed August 21, 1919, so far as they are inconsistent with the basis of fare herein prescribed.

And it is

Further ordered, That a copy of this order be filed with said tariff at the office of the Commission and that a copy hereof be forthwith served upon the Holyoke Street Railway Company.

By the Commission,

ANDREW A. HIGHLANDS,

OCTOBER 31, 1919.

[P. S. C. 2473]

Secretary.

MASSACHUSETTS NORTHEASTERN FARES.

Notice of the Massachusetts Northeastern Street Railway Company of proposed increase in rates of fare for passengers upon its railway.

D. A. BELDEN	}	for Massachusetts Northeastern Street Railway Company.
R. D. WOOD		
F. E. WEBSTER		
GEORGE R. FRENCH		
ALBERT P. WADLEIGH for Towns of Amesbury and Merrimac.		
FRED H. MAGISON for City of Haverhill.		
EDWARD CALLAHAN for City of Lawrence.		
SAMUEL RUSHTON	}	for City of Methuen.
CHARLES A. CLIFFORD		
EDWARD CALLAHAN		
SAMUEL JOY for Methuen Planning Board.		
SENNET J. LAGRANGE for Hampshire Road Improvement Society (Methuen).		
HORACE I. BARTLETT	}	for City of Newburyport.
CARL C. EMERY		

On April 7, 1919, the Massachusetts Northeastern Street Railway Company notified the Commission of a proposed change in cash fares on its lines, to become effective May 7, 1919. A public hearing was held on April 23, 1919, and pending investigation, the operation of this schedule was suspended by the Commission until May 15, 1919. The company also filed a similar schedule with the Public Service Commission of New Hampshire and with the Interstate Commerce Commission.

In the Massachusetts Northeastern rate case decided June 29, 1918, the Commission authorized a re-division of the system into fare sections averaging about $2\frac{1}{2}$ miles in length, each section being sub-divided into two zones averaging approximately $1\frac{1}{4}$ miles in length, with a cash fare of 5 cents for each section and a ticket fare of $7\frac{1}{2}$ cents for a section and a half, or three consecutive zones (6 P. S. C. Rep. page 134). On September 13, 1918, the company filed a new tariff providing for an

increase of the regular cash fare from 5 cents to 6 cents, tickets being also provided for convenience in strips of 5 for 30 cents, and for an increase of the ticket rate for three consecutive zones from $7\frac{1}{2}$ cents to 9 cents. This tariff was allowed to become effective as filed for an experimental period of six months, subject to certain local fare adjustments which have since been made (6 P. S. C. Rep., page 314). As the company claims that the results of operation during this experimental period have disclosed the need of additional revenue, it proposes in its pending tariff to increase the cash fare from 6 cents to 10 cents. The present ticket rate of 5 tickets for 30 cents, good for transportation in or through any fare section, and the present ticket rate of 10 tickets for 90 cents, good for transportation in or through any three consecutive fare zones are, however, retained, and no changes are made in the present fare zones and sections, or in transfer privileges.

The reports made by the Commission in the Massachusetts Northeastern rate case in 1916 (4 P. S. C. Rep. p. 122) and the later case decided June 29, 1918, already referred to, contained a review of the financial and operating history of the road, and established the basis of return to which the company is entitled. The company has paid no dividends since 1916, when it paid $4\frac{1}{2}$ per cent on its preferred stock only. In 1917 its net income was \$41,716, a sum equivalent to 1.92 per cent on its outstanding capital stock. In 1918 it failed to earn its operating expenses, interest and taxes by \$17,856. For the first three months of the current year it has failed to earn its operating expenses alone by \$2,300. If a proportionate part of the yearly taxes, interest on bonds and notes and amortization charges were added, the deficit from operation for the first quarter of the present year would be \$27,039. The company, however, is likely to make a very much better showing for the remainder of the year as the result of the largely increased travel which may be anticipated during the summer months.

It is also to be observed that the deficit from operation for the first three months of this year is about \$15,000 less than for the same period last year. The number of passengers carried shows an increase of 17.9 per cent, and the revenue increase, which includes the increment from higher fares, amounts to 21.2 per cent. Owing to the interruptions of traffic resulting from the abnormal weather conditions during the first three months of last year, this period cannot fairly be taken as a

proper basis of comparison in estimating the probable traffic increase for the entire year. As the result of a careful analysis made by the Commission in the recent fare case of the Worcester Consolidated Street Railway Company, decided April 14, 1919, [P. S. C. 2353] it appeared that about 7.38 per cent more passengers would have been carried upon the lines of that company in the first three months of 1918 if weather conditions had been normal. Making a similar adjustment for traffic loss due to weather conditions in the early part of 1918, the number of passengers carried by the Massachusetts Northeastern Street Railway Company during the first quarter of the present year would represent an increase of 9.8 per cent above the estimated riding for the same period of 1918 under normal weather conditions. So far, therefore, as the results of operation for the first three months of the present year may be taken as an index of traffic conditions, it may reasonably be assumed, if there is no decrease of service on any of the company's lines, that approximately 10 per cent more passengers will be carried by the company this year than were carried last year, or a total of 15,855,116. As the present average fare per revenue passenger is 5.69 cents, the total passenger revenue for the present year would thus amount to \$902,156.10. Assuming miscellaneous income of the same amount as last year, the total revenue of the company for the current year, under existing fares, would amount to \$936,092.64.

In order to determine the increased revenue which the company would be likely to receive from its pending tariff, it is necessary to estimate the number of passengers who would pay the cash fare of 10 cents rather than the ticket fare of 6 cents. The superintendent of the traffic department of the Bay State Street Railway Company, in a communication dated April 3, 1919, which is filed with the papers in this case, states that an analysis of the traffic in the city zones on that system shows that approximately $6\frac{1}{2}$ per cent of the passengers who have the option of purchasing 7-cent tickets pay the cash fare of 10 cents. As the spread between the ticket fare and the cash fare would be somewhat greater in the case of the Massachusetts Northeastern Street Railway Company, it is doubtful if more than 5 per cent of its patrons would pay the cash fare proposed. If our estimate of the passenger traffic for the present year is correct this would give the company an additional annual revenue of \$31,710 which would represent approximately \$20,000 for the

balance of the present year. The total revenue of the company for the year 1919, if the present tariff were allowed, would therefore amount, as nearly as can now be estimated, in round figures, to about \$950,000. As this amount is \$175,000 larger than the company's revenue for 1918, the estimate made appears to be liberal and may prove to be substantially larger than the actual results of operation.

Upon the basis of the company's expenditures for 1918, adjusted to present wage conditions, the total expenditures of the company for the present year, including a very conservative provision for depreciation and a proper dividend return as found by the Commission in the previous rate cases of the company, would amount to approximately \$1,000,000. At the hearing some criticism was made of the intercorporate relations between the Massachusetts Northeastern Street Railway Company and affiliated companies, including the Rockingham County Light and Power Company, of Portsmouth, New Hampshire, from which the street railway company purchases all its power. This matter was considered in detail by the Commission in the previous rate cases hereinbefore referred to, and as stated therein, no evidence was found to justify a finding that the company was paying an excessive rate for the power purchased from the affiliated power company under the present contract. It seems clear, therefore, that the company in order to meet its legitimate revenue requirements is entitled to the increased income which would be likely to result from the rates prescribed in its pending tariff.

The company claimed that the additional revenue required could be obtained with least burden to the public through the method proposed in its tariff, as the entire increase would be borne by the occasional, rather than the regular rider. The company also claimed that under conditions which frequently occur, especially during the summer months, it is practically impossible for conductors to collect the 6-cent cash fares from all passengers, and that the plan proposed, by encouraging the use of tickets and providing a cash fare of 10 cents which may be paid by a single coin, would facilitate fare collections and decrease the revenue losses which are bound to occur under present fare conditions.

While the method proposed by the company provides for a relatively large increase in the fare paid by the occasional rider, an increase which would be paid only on rare occasions and

chiefly for casual pleasure travel would constitute a relatively small financial burden. The burden placed upon the regular rider by making an initial investment of 30 cents, instead of paying it in installments of 6 cents, is also comparatively slight. The payment of fares by tickets rather than by cash is the common practice on all railroads and on many street railways throughout the country, and is in many ways a convenience to the passenger as well as to the company. In the opinion of the Commission, and this opinion was apparently concurred in by the remonstrants at the hearing, if the company needs and is entitled to additional revenue, the method which it has suggested for obtaining the increase will cause the least hardship to the patrons of the company and the communities which it serves.

At the hearing objections to the proposed tariff in certain matters of detail were voiced by the remonstrants. The tariff as filed provides that school tickets shall be sold "at one-half the regular cash or regular ticket fare". This language is ambiguous, but the company agreed at the hearing that school tickets would be sold at one-half the regular ticket fare. It was also suggested that the company, for the convenience of passengers riding a comparatively long distance to summer resorts or other points on its system, should sell strips of tickets of the exact number required for the entire distance, where this number is not a multiple of five, so that passengers would not be left with unused tickets at the end of a trip. The company has also agreed to comply with that suggestion. The tariff provides that tickets for the regular unit of fare will be sold at all offices of the company and by its conductors on the cars. It was pointed out at the hearing, however, that even if the company endeavored in the best of good faith to carry out this provision, occasions would undoubtedly arise when a conductor on a particular trip would have an insufficient supply of tickets, and that it would be a hardship in such cases to compel the passenger to pay the 10-cent cash fare. There appears to be reasonable ground for this objection, and the Commission has therefore arranged that a passenger paying the cash fare under such conditions shall receive a rebate check good for 4 cents redeemable by the company at some convenient point in every town or city in which it operates. At the hearing complaint was also made of certain alleged inequalities in the present fare system, and it was suggested that a rearrangement

of the present fare limits should be made at certain points. These complaints are directed against existing fares, and have no special pertinence in connection with the changes covered by the pending tariff. The Commission is, however, prepared to consider these complaints in conference with the parties, and will endeavor to make such readjustments, if any, as may be necessary to prevent discrimination.

In view of all the facts in the case, the Commission will allow the schedule as filed, subject to the modifications provided for herein, to become effective, upon at least two days' notice, on May 19, 1919.

ORDER.

It appearing that on April 7, 1919, the Massachusetts Northeastern Street Railway Company filed with the Commission a local passenger tariff numbered M. P. S. C. No. 12, cancelling tariff numbered M. P. S. C. No. 10, and that said tariff has been suspended by order of the Commission until May 15, 1919, unless otherwise ordered;

And it further appearing that a full investigation of the matters and things involved in said tariff has been had, and that the Commission on the date hereof has made and filed a report containing its findings of fact and conclusions thereon, which said report is herein referred to and made a part hereof,

It is

Ordered, That the Massachusetts Northeastern Street Railway Company be hereby notified that said company, upon filing with the Commission a supplement to said tariff providing for the modifications therein which are specified in the said report, and upon not less than two days' notice to the Commission and the general public by filing and posting in a conspicuous manner in its waiting rooms and cars a printed notice which shall plainly state the changes proposed to be made in the fares now in force and the time when such changes shall take effect, may, under this authority and for the reasons stated in said report, make said tariff, as amended by said supplement, effective on May 19, 1919.

It is

Further ordered, That the Massachusetts Northeastern Street Railway Company be and is hereby notified and required to cancel the rates and charges stated in the tariff specified in said order of suspension so far as they are inconsistent with the basis of fare herein prescribed.

And it is

Further ordered, That a copy of this order be filed with said tariff at the office of the Commission, and that a copy hereof be forthwith served on the Massachusetts Northeastern Street Railway Company.

By the Commission,

ALLAN BROOKS,
Assistant Secretary.

MAY 14, 1919. [P. S. C. 2395]

MIDDLESEX AND BOSTON FARES.

Notice of Middlesex and Boston Street Railway Company of proposed increase in rates of fare for passengers.

PITT F. DREW } for Middlesex and Boston Street Railway
GEORGE M. COX } Company.

ALLEN L. CALDWELL for Ashland Board of Trade.

EDWARD CARR for Town of Hopkinton.

ROBERT L. RYDER for Town of Lexington.

WILLIAM J. NAPHEN for Town of Natick.

WILLIAM G. MOSELEY for Town of Needham.

ELIAS B. BISHOP for City of Newton.

JOHN J. FLYNN } for City of Waltham.
JOHN M. GIBBS }

CLARENCE A. BUNKER for Town of Wellesley.

H. F. RAYMOND, Lexington.

On July 2, 1919, the Middlesex and Boston Street Railway Company notified the Commission of a proposed change in fares and transfer privileges on its lines, to become effective August 1, 1919. Public hearings were held on July 22 and July 24, 1919.

Present fares, established July 1, 1918, are 7 cents on the main traffic lines, and 8 cents on the remainder of the system except on the Westborough-Hopkinton line, where, by agreement with the towns affected, the fare was increased on November 8, 1918, to 10 cents. Under the schedule recently filed the 7-cent fare is retained on all lines in Waltham and Newton except those formerly owned by the Lexington and Boston, the Newton and Boston and the Commonwealth Avenue street railway companies, but on the remainder of the system the fare is increased to 10 cents. The tariff as filed also provides for an additional charge of 3 cents for all transfers. At the hearing, however, the company agreed to furnish free transfer privileges to patrons paying a 10-cent fare. The charge for passengers using a transfer would thus be uniformly 10 cents on the entire system.

It is unnecessary at this time to review the past financial and operating history of the company, which is set forth in detail in

previous orders of the Commission. (2 P. S. C. Rep., p. 99; 5 P. S. C. Rep., p. 103; 6 P. S. C. Rep., p. 145). Prior to July 1, 1914, the fares were 5 cents on the principal city lines and 6 cents, with a 5-cent ticket rate, on the remainder of the system. During the last year under that schedule the passenger revenue of the company amounted to \$951,808. During the year just ended, the company's passenger revenue, after three successive fare increases, amounted to only \$938,533, which was insufficient by approximately \$65,000 to meet operating expenses and fixed charges. During the year ended June 30, 1919, covering the period of the last fare increase, traffic fell off nearly 20 per cent, and revenue decreased over 10 per cent. Upon this showing the company's need of additional revenue is apparent, and was indeed conceded by all the remonstrants at the hearing, but, in view of the financial results of fare increases heretofore made, it is doubtful how far it is possible for the company to meet its revenue requirements by a further increase in the unit of fare.

The company claimed that the recent decline of traffic has been due in large measure to a reduction of 22 per cent in the car mileage operated and to general economic and traffic conditions in the territory served, and stated that the loss of revenue would have been still greater if previous fares had been retained. This claim obviously is mere matter of opinion, but is entitled to respect as representing the judgment of officials of the company who are in close contact with local conditions. Whatever view may be entertained in regard to the effect of past increases, the effect of a further increase to 10 cents, a sharper increase than any heretofore made, must be largely speculative.

From its study of the results of various forms of fare increases established by other companies, the Commission is inclined to believe that a readjustment of fare zones, with a lower rather than a higher rate of fare, is likely to yield a larger increase of revenue for the company and to be preferable also from the standpoint of the public. The same view is entertained by the Inspection Department of the Commission, after an analysis of operating conditions upon the lines of this company. It is true that the interlacing of lines in Waltham and Newton without any well defined traffic center, makes it difficult and perhaps impracticable to make a satisfactory rearrangement of existing zones, but for the remainder of the system at least a readjustment of fare zones with a 5-cent unit of fare would seem to offer possibilities that would justify a trial.

The company expressed its willingness to try any well considered plan which seemed preferable to the Commission and the patrons of the company but, pending the consideration of such plan, asked that the fares as filed be allowed to become effective. As the company has not been able to meet the payment of current operating expenses or excise taxes now owing to the municipalities, and as negotiations are now pending with its employees for a further wage increase its need of additional revenue is immediate and urgent. It claims that the result of its operation of the Westborough-Hopkinton line on a 10-cent fare, indicates that additional revenue can be obtained from the fare increases proposed in its schedule. According to the company's estimates, the increased revenue would amount to approximately \$132,000, but it is conceded that this figure is purely speculative, and the increase, if any, is likely to be of small amount.

While the Commission, as already stated, is not optimistic in regard to the revenue effects of a 10-cent fare on this system, we do not feel that we are justified in overriding the judgment of the officials of the company or in making a positive finding that no increase of revenue whatever would result from the fares proposed. The Commission is less disposed to be dogmatic in its views, as a 10-cent fare is now in effect on the lines of the Boston Elevated and Bay State companies, and the public trustees of both companies are apparently impressed with the revenue possibilities of the fare plan adopted. We are, therefore, of the opinion that the Middlesex and Boston Street Railway Company should be permitted to put its fare schedule into effect for a brief period, in order that it may be tested on the basis of actual results.

We have, however, advised the company that the revenue received within the two fare zones on the main line between Newton Lower Falls and Framingham depot, as compared with the average revenue from the proposed 7-cent lines, does not justify a spread of 3 cents in the fares charged, and that tickets at the rate of 6 for 50 cents without transfer privileges should be made available on the two zones mentioned. Readjustments in the fare situation on the Lexington and Boston division and on the South Natick line appear also to be desirable, but on the basis of the total length of ride available and the revenue results from existing zones, the fare proposed for these lines does not appear to be discriminatory, and any adjustment

of fares should be accompanied by a revision of fare zones which it is not practicable to put into effect at this time. Any plan for a readjustment of fares and fare limits on this system would involve a detailed study of local traffic conditions and probably could not be worked out in less than two or three months.

Subject to the modifications mentioned with respect to fares and transfer privileges, the tariff as filed will therefore be allowed to become effective on two days' notice upon the distinct understanding that the whole question may, upon the complaint of any interested party, be opened for review at the end of a three months' trial period, with the burden of proof remaining upon the company to show at that time that the new fares should be permitted to remain in force. Meantime, it is hoped that the Commission, through conference with the company and representatives of the communities affected, and in the light of actual experience under the new fare schedule, may be able to work out an alternative fare plan which may be preferable both to the company and to the public.

ORDER.

It appearing that on July 2, 1919, the Middlesex and Boston Street Railway Company filed with the Commission, effective August 1, 1919, a local passenger tariff numbered M. P. S. C. No. 3, Supplement No. 3, cancelling tariff M. P. S. C. No. 3, Supplement No. 2;

And it further appearing that a full investigation of the matters and things involved in said tariff has been had, and that the Commission on the date hereof has made and filed a report containing its findings of fact and conclusions thereon, which said report is herein referred to and made a part hereof,

It is

Ordered, That the Middlesex and Boston Street Railway Company be hereby notified that said company, upon filing with the Commission a supplement to said tariff providing for the modifications therein which are specified in the said report, and upon not less than two days' notice to the Commission and the general public by filing and posting in a conspicuous manner in its waiting rooms and cars a printed notice which shall plainly state the changes proposed to be made in the fares now in force and the time when such changes shall take effect may, under this authority and for the reasons stated in said report, make said tariff as amended by said supplement, effective August 4, 1919.

It is

Further ordered, That the Middlesex and Boston Street Railway Company be and is hereby notified and required to cancel the rates and charges stated in said tariff filed July 2, 1919, so far as they are inconsistent with the basis of fare herein prescribed.

And it is

Further ordered, That a copy of this order be filed with said tariff at the office of the Commission and that a copy hereof be forthwith served on the Middlesex and Boston Street Railway Company.

By the Commission,

ALLAN BROOKS,

Assistant Secretary.

JULY 31, 1919. [P. S. C. 2450]

Notice of the Middlesex and Boston Street Railway Company of proposed increase in the rates of fare for passengers on its railway.

PITT F. DREW, President	}	Middlesex and Boston Street Railway Company.
GEORGE M. COX, General Manager		

WILLIAM J. NAPHEN, Town Counsel, Natick.

CLARENCE A. BUNKER, Town Counsel, Wellesley.

JOHN J. FLYNN, City Solicitor, Waltham.

E. B. BISHOP, City Solicitor, Newton.

Pursuant to an order of the Commission dated June 29, 1918, the Middlesex and Boston Street Railway Company, on July 1, 1918, established a fare of 7 cents on its main traffic lines and 8 cents on the remainder of the system. (6 P. S. C. Rep., p. 145.) Subsequently, by agreement with the towns affected, a fare of 10 cents was established on the Westborough-Hopkinton line on November 8, 1918. Under this arrangement the average fare paid by adult passengers during the year ended June 30, 1919, was 7.06 cents. After the submission of evidence showing the company's need of additional revenue the Commission, on July 31, 1919, authorized the company to establish a 7-cent fare, with an additional charge of 3 cents for transfers on all its lines in Waltham and Newton except those formerly owned by the Lexington and Boston, the Newton and Boston and the Commonwealth Avenue street railway companies, and to establish a fare of 10 cents, with free transfer privileges, on the remainder of its system (P. S. C. 2450).

As the result of an arbitration award made soon after these fares became effective, the employees of the company received an increase in wages, amounting, in the average, to approximately 36 per cent and representing an annual increase in the company's payroll of from \$140,000 to \$180,000 per year, according to the schedule operated. In order to meet this additional cost of operation the company filed a new schedule of fares, effective September 20, 1919, providing for a uniform fare of 10 cents on all lines and a charge of 2 cents for all transfers issued. After notice and hearing, the operation of the company's tariff was suspended until October 20, 1919.

From evidence submitted at the hearing, it appeared that for the year ending June 30, 1919, and upon the basis of actual expenditures and allowances for maintenance and depreciation, the company failed by \$64,811 to meet its operating expenses and fixed charges. The increase in the wage scale, if other conditions remained the same, would result in a deficit for the current year of approximately \$225,000. In order to pay a 6 per cent return on the company's stock, a further sum of \$119,-220 would be required. Upon that basis the additional revenue requirements of the company would amount to \$344,220, and if maintenance and depreciation requirements are to be adequately provided for, additional revenue of substantial amount would be necessary. Even if the company, in the light of its prior history as shown in former orders of the Commission, is not now entitled to a full return upon its entire capital stock, it would appear to be justified in charging such fares as will enable it to earn at least \$300,000 in excess of its receipts for the year ended June 30, 1919.

In its report and order authorizing the fares now in effect the Commission expressed its doubt as to whether the establishment of a 10-cent fare would not result in a traffic loss which would, in large measure, offset the estimated gain in revenue. The same view was expressed by representatives of the communities affected, and the company itself did not appear to be especially optimistic of the results that would be obtained. The revenue figures for the past two months, however, show a gain much larger than anticipated.

The passenger revenue for the months of August and September of this year amounted to \$113,056.13 and \$100,627.95 respectively, as compared with \$96,453.51 and \$50,784.17 respectively for the same months of last year. These figures cannot, however, be regarded as fairly comparative, owing to a strike

and an almost complete tie-up of traffic on all lines of the company during the last two days of August and the first nine days of September, 1918. It is also to be observed that the present fares did not go into effect until August 4 of this year. In order, therefore, to determine the revenue results of the last fare increase, the periods from August 4 to August 29, and from September 10 to September 30, should be taken as the basis of comparison. The following tables show the passenger revenue and the number of revenue passengers carried, counting two town-line tickets or two school tickets as representing one passenger, for these two periods in 1918 and 1919, and a sub-division of the same between the 7-cent lines and the 10-cent lines as now established:—

Revenue and Passengers, August 4 to 29.

	REVENUE.		PASSENGERS.	
	1918.	1919.	1918.	1919.
7-cent lines,	\$35,996 34	\$36,710 81 ¹	514,209	503,937
10-cent lines,	48,244 98	57,357 91	675,474	579,958
Total (all lines),	\$84,241 32	\$94,068 72	1,189,683	1,083,895

¹ Including \$1,435.23 received from 47,841 transfer passengers.

Revenue and Passengers, September 10 to 30.

	REVENUE.		PASSENGERS.	
	1918.	1919.	1918.	1919.
7-cent lines,	\$22,088 32	\$23,196 19 ¹	315,525	386,977
10-cent lines,	25,264 35	40,551 29	355,507	411,890
Total (all lines),	\$47,352 67	\$63,747 48	671,032	798,867

¹ Including \$1,104.30 received from 36,810 transfer passengers.

Aggregate Revenue and Passengers August 4 to 29 and September 10 to 30, Inclusive.

	REVENUE.		PASSENGERS.	
	1918.	1919.	1918.	1919.
7-cent lines,	\$58,084 66	\$64,907 00 ¹	829,734	890,914
10-cent lines,	73,509 33	97,909 20	1,030,981	991,848
Total (all lines),	\$131,593 99	\$162,816 20	1,860,715	1,882,762

¹ Including \$2,539.53 received from 84,651 transfer passengers.

Percentage of Increase or Decrease of Revenue and Passengers during these Periods.

	PERCENTAGE OF REVENUE INCREASE.			PERCENTAGE OF PASSENGER INCREASE.		
	August 4-29.	September 10-30.	Total Period.	August 4-29.	September 10-30.	Total Period.
7-cent lines,	1.98	27.65	11.74	1.99 ¹	22.64	7.37
10-cent lines,	18.88	60.51	33.19	14.14 ¹	15.86	3.79 ¹
Total (all lines), . .	11.66	45.18	23.72	8.89 ¹	19.05	1.18

¹ Decrease.

For the year ended June 30, 1919, the number of revenue passengers, counting two town-line tickets or two school tickets as representing one, was 13,282,860, and the total revenue amounted to \$938,533.86. If the pending tariff, placing all lines of the company on a 10-cent fare basis, were allowed, the company estimates that the number of passengers carried during the current year would show a decrease of 10 per cent as compared with the year ended June 30, 1919, and that the additional revenue would amount to \$256,923.59. A little over one-half of the company's passengers are now carried over lines where an increase of fare to 10 cents has already been established under the Commission's order of August 4, 1919. Since that time traffic on these lines, as shown above, has decreased by 3.79 per cent. It is possible, however, that a greater traffic loss would result from the pending tariff, which provides for the extension of the 10-cent fare to the city lines, where there is presumably a larger amount of short-haul riding. Moreover, it is unsafe to place too great reliance on the figures showing the actual traffic loss on the present 10-cent lines, as the comparison is based in part upon the traffic for September, 1918, which apparently showed the effects of the strike in a decrease of normal riding, even after service was resumed. The company's estimate of a 10-per cent loss of traffic if the average fare of 7.06 cents for the year ended June 30, 1919, were increased to 10 cents on its entire system, does not, in view of all the circumstances, appear to be unreasonable, but even if this loss should be only $7\frac{1}{2}$ per cent, the increase in revenue would be well within the amount to which the company appears to be entitled.

As to whether the company has selected the best method of obtaining the needed increase in revenue is a more difficult

question. In its report of July 31, 1919, the Commission stated that "from its study of the results of various forms of fare increases established by other companies, the Commission is inclined to believe that a readjustment of fare zones, with a lower rather than a higher rate of fare, is likely to yield a larger increase of revenue for the company, and to be preferable also from the standpoint of the public." It was pointed out, however, that "any plan for a readjustment of fares and fare limits on this system would involve a detailed study of local traffic conditions and probably could not be worked out in less than two or three months." Pending further consideration of that plan, the company was permitted for a trial period of three months to test the actual revenue results of a 10-cent fare upon the lines specified in its schedule, upon the understanding that the alternative fare-plan suggested by the Commission should be worked out in detail and presented for further consideration at the end of that period.

After a careful study of operating conditions on the various lines of the company, the Commission submitted, at the hearings in the case now pending, a plan for the rearrangement of existing zones and the establishment of a 5-cent fare without transfer privileges. While that plan provided a lower rate for short-haul riders, it fixed a rate for long-distance riders higher in some cases than the tariff proposed by the company. While most of the communities indicated a preference for that plan, they desired to examine it further before expressing any final conclusion. The company, on the other hand, stated that the revenue results from the fares already established had proved so satisfactory that it seemed desirable to make a further test of the 10-cent fare by applying this rate to its entire system before running the risk of experiment with the fares suggested by the Commission.

It is true that the increase in revenue on the lines where a 10-cent fare is now in effect has proved larger than was anticipated, and may well justify a further trial. The results, however, are still far from conclusive. The demobilization of our military forces and the resumption of more normal business and social conditions has in general resulted in a marked increase of street railway traffic throughout the entire country. This tendency has undoubtedly offset and obscured to a large extent the traffic losses due to the high fares charged by the company, and while the gain in revenue has been substantial, it is no

greater than that which has resulted from the growth of traffic in the case of several other companies which have preserved a relatively low rate of fare.

The possibility of obtaining necessary revenue through increased travel under a low unit of fare is to a large extent dependent upon local conditions in the territory served. The management of the Middlesex and Boston Company has expressed the opinion that the traffic possibilities on its lines are not such as to justify it in attempting to meet its revenue requirements in that manner. While the inspection department of the Commission is not inclined to share that view, it seems to us that proper weight should be given to the judgment of the company's officials, at least to the extent of permitting a trial of the 10-cent fare on the entire Middlesex and Boston system for a period of three months. This course is also recommended by the possibility that legislation may be enacted within that period which will influence the final disposition of the case.

It is to be observed, however, that the company under its pending tariff proposes not only to establish a uniform fare of 10 cents, but to charge 2 cents for all transfers issued. Upon all the evidence now available, the Commission finds that this additional transfer charge is not justified by the revenue requirements of the company, and is unreasonable from the standpoint of the public. If this transfer charge is eliminated, the company's tariff will be permitted to become effective for a 3 months' period from November 1, 1919.

ORDER.

It appearing that on August 20, 1919, the Middlesex and Boston Street Railway Company filed with the Commission, effective September 20, 1919, a local passenger tariff numbered M. P. S. C. No. 3, Supplement No. 5, cancelling tariff M. P. S. C. No. 3, Supplements Nos. 2, 3 and 4.

And it further appearing that a full investigation of the matters and things involved in said tariff has been had, and that the Commission on the date hereof has made and filed a report containing its findings of fact and conclusions thereon, which said report is herein referred to and made a part hereof, —

It is

Ordered, That the Middlesex and Boston Street Railway Company be hereby notified that said company, upon filing with the Commission a supplement to said tariff providing for the

modifications therein which are specified in the said report, and upon not less than two days' notice to the Commission and the general public by filing and posting in a conspicuous manner in its waiting rooms and cars a printed notice which shall plainly state the changes proposed to be made in the fares now in force and the time when such changes shall take effect may, under this authority and for the reasons stated in said report, make said tariff as amended by said supplement, effective November 1, 1919.

It is

Further ordered, That the Middlesex and Boston Street Railway Company be and is hereby notified and required to cancel the rates and charges stated in said tariff filed August 20, 1919, so far as they are inconsistent with the basis of fare herein prescribed.

And it is

Further ordered, That a copy of this order be filed with said tariff at the office of the Commission and that a copy hereof be forthwith served on the Middlesex and Boston Street Railway Company.

By the Commission,

ANDREW A. HIGHLANDS,

OCTOBER 28, 1919.

[P. S. C. 2472]

Secretary.

WORCESTER CONSOLIDATED FARES.

Notice of the Worcester Consolidated Street Railway Company of proposed increase in rates of fare for passengers upon its railway.

BENTLEY W. WARREN } for Worcester Consolidated Street
FRANCIS H. DEWEY } Railway Company.

JOHN W. MAWBEE } for City of Worcester.
PEHR G. HOLMES }

R. H. BEAUDREAU } for City of Marlborough.
CHARLES F. MCCARTHY }

FRANK H. FOSS for City of Fitchburg.

JAMES H. P. DYER for City of Leominster.

ANDREW THAYER for Town of Auburn.

WALTER A. HEALEY for Town of Berlin.

GEORGE L. WRIGHT for Town of Boylston.

PARKE H. WEBB } for Town of Grafton.
NAPOLEON F. GAUDETTE }

ROBERT I. BRAMHALL for Town of Holden.

F. W. MOORE } for Town of Millbury.
ROBERT BROWN }

ANTHONY DIXON }
E. H. BIGELOW for Town of Northborough.

F. H. JEALOUS } for Town of Oxford.
CHARLES TURNER }

RAYMOND B. FLETCHER for Town of Shrewsbury.

NATHAN C. BRYANT for Town of Spencer.

W. C. FABER for Town of Webster.

WINFRED H. WHITING for Town of West Boylston.

WILLIAM J. GUILFOYLE } for Central Labor Union.
JOHN W. STUBBERT }
CLARENCE E. TUPPER }

JOHN L. SULLIVAN }

PETER J. ROONEY for Amalgamated Association of Street Railway Employees.

WILLIAM A. ROSSLEY for Worcester Building and Trades Council.

The Worcester Consolidated Street Railway Company owns and operates about 242 miles of main track, and operates under

lease about 29 miles of such track, — a total of main track owned or operated of 271 miles or, including sidings, a total of 290 miles. Its railroad is located in the following named cities and towns of the Commonwealth, having respectively the track mileage and the population at successive periods indicated in the following table:—

CITIES OR TOWNS.	Mileage.	POPULATION.			
		1900.	1905.	1910.	1915.
Auburn,	11.03	1,621	2,006	2,420	3,281
Berlin,	4.92	1,003	906	904	865
Blackstone,	3.95	5,721	5,786	5,648	5,689
Boylston,	7.52	1,364	649	714	783
Charlton,	9.57	1,860	2,089	2,032	2,213
Clinton,	5.22	13,667	13,105	13,075	13,192
Fitchburg,	2.77	31,531	33,021	37,826	39,656
Grafton,	10.40	4,869	5,052	5,705	6,250
Holden,	5.76	2,464	2,640	2,147	2,514
Hudson,	2.48	5,454	6,217	6,743	6,758
Lancaster,	5.99	2,478	2,406	2,464	2,585
Leicester,	6.75	3,416	3,414	3,237	3,322
Leominster,	13.03	12,392	14,297	17,580	17,646
Marlborough,	4.51	13,609	14,073	14,579	15,250
Millbury,	8.39	4,460	4,631	4,740	5,295
Northborough,	7.87	2,164	1,947	1,713	1,797
Northbridge,	7.16	7,036	7,400	8,807	9,254
Oxford,	11.20	2,677	2,927	3,361	3,476
Shrewsbury,	6.55	1,626	1,866	1,946	2,794
Southborough,	2.52	1,921	1,931	1,745	1,898
Southbridge,	5.61	10,025	11,000	12,592	14,217
Spencer,	2.81	7,627	7,121	6,740	5,994
Sterling,	6.37	1,420	1,315	1,359	1,403
Sturbridge,	6.70	2,058	1,974	1,957	1,618
Sutton,	1.25	3,328	3,173	3,078	2,829
Uxbridge,	6.95	3,599	3,881	4,671	4,921
West Boylston,	8.98	2,314	1,571	1,270	1,318
Webster,	7.02	8,804	10,018	11,509	12,565
Westborough,	10.25	5,400	5,378	5,446	5,925
Worcester,	96.84	118,421	128,135	145,986	162,697
Total,	290.37	284,329	299,929	331,994	358,005

Until July 1, 1918, the company had a 5-cent fare, the railway being divided into zones of varying lengths. On that date a revised tariff went into effect, without opposition, substituting for the 5-cent fare a 6-cent fare upon all zones outside of the city of Worcester, and on August 1st a tariff became effective, also without opposition, changing the 5-cent fare in the city of Worcester to 6 cents. Since the last named date the company has been operating with a 6-cent fare upon all its lines, except in certain limited sections where for special reasons the Commission or its predecessor, the Board of Railroad Commissioners, had previously ordered certain reduced rates, good only during certain hours of the day, for workmen's tickets, so called.

As of June 1, 1918, new wage scales became obligatory upon the company as a result of an arbitration award made by Mr. Henry B. Endicott, then executive manager of the Public Safety Committee of the Commonwealth, to whom the company and its employees had referred the question following their own inability to agree upon rates for the year beginning June 1, 1918. This award fixed the rates of wages until June 1, 1919, and involved an increase in the rate of wages over that paid immediately prior thereto of about $24\frac{1}{2}$ per cent. It appeared at the public hearings on the present application that the increases in payrolls made by the company since the beginning of the European War in 1914 represented an additional cost for every passenger carried of about 1.07 cents.

The two tariffs mentioned above were allowed by the Commission to take effect without suspension, both because of the absence of any opposition and also because the increase in fares thereby contemplated was so obviously moderate in view of the increase of wages just mentioned, and of which the Commission had knowledge.

On January 10, 1919, the company filed tariffs M. P. S. C. No. A-4 and Supplement No. 1 to M. P. S. C. No. A-4, to become effective, if not suspended, on February 9, 1919. These tariffs contemplated an increase of 1 cent in the 6-cent fares, making the charge in each zone uniformly 7 cents, and increasing proportionally the rates for pupils' tickets. The tariff also contemplated an increase of 40 per cent in the rates for workmen's tickets, these latter not having been increased at the time of the increase in July and August. These tariffs, by successive orders of the Commission, were suspended until April 15, 1919. Public hearings were held at the office of the Commission on

February 3 and in the city of Worcester on February 10, and a further hearing was held in the office of the Commission at which arguments were presented on behalf of the company and of the city of Worcester.

The history of the company dates from the incorporation of the Worcester Horse Railroad Company, organized under a Special Act of the General Court, Statute 1861, Chapter 148. The property of the Worcester Horse Railroad Company was subsequently acquired by the Worcester Street Railway Company, organized under a Special Act of the General Court, Statute 1867, Chapter 141. The property of the last named company was acquired in 1887, with the approval of the Board of Railroad Commissioners, by its order dated January 31, 1887, by the Citizens Street Railway Company of Worcester, and the name of the company changed by the General Court, Statute 1887, Chapter 284, to "Worcester Consolidated Street Railway Company." At various times since 1887 the company has acquired the franchises and properties of various other street railway companies, with the approval of the Board of Railroad Commissioners. Details of these acquisitions appear in the various annual reports of that Board, and a summary thereof is given in the annual report of the Commission for 1915 (3 P. S. C. Rep. Vol. II, pp. 1268-1270). The company also operates under leases the railways of four other street railway companies and of one small railroad company (operated by electricity) connecting with its own lines, the aggregate rental amounting to \$27,250 a year.

In 1901, all the stock of the Worcester Consolidated Street Railway Company was acquired by the Worcester Railways and Investment Company, a voluntary association, the shares of which were held by the investing public. In 1906, a majority of the shares of the Worcester Railways and Investment Company were acquired by the Consolidated Railway Company of Connecticut, which was controlled by the New York, New Haven and Hartford Railroad Company. The control of the Worcester Railways and Investment Company was subsequently transferred to the New England Investment and Security Company, another voluntary association, which was organized in the interest of the New York, New Haven and Hartford Railroad Company, and the history of which is given in the decision of this Commission in the Springfield Street Railway rate case decided March 30, 1918. This association issued preferred shares,

and opportunity was offered to the minority holders of Worcester Railways and Investment shares to exchange the latter for such preferred shares. A total of 40,000 of these preferred shares were issued and, until recently, outstanding. On March 27, 1917, this Commission authorized the Worcester Consolidated Street Railway Company to issue 45,000 first preferred shares of the par value of \$80 each for the purpose of retiring 36,000 shares of the par value of \$100 each of its common capital stock. All the first preferred and common stock of the Worcester Consolidated was acquired by the New England Investment and Security Company, which offered to its own preferred shareholders the privilege of exchanging New England Investment preferred shares for a like number of Worcester Consolidated first preferred shares. All but 1,121 of the New England Investment preferred shares were thus exchanged. The Worcester Railways and Investment Company was dissolved.

All of the common stock of the Worcester Consolidated and about 3,865 of its first preferred shares are now held by the New England Investment and Security Company. The balance of the Worcester Consolidated first preferred stock is held by the public. The control of the New England Investment and Security Company is vested in a board of seven trustees, four of whom are selected by the 1,000 common shares of the Investment Company. All of these common shares are held by a Protective Committee formed in 1914 in the interest of the then holders of Investment Company preferred shares.

The New England Investment and Security Company, besides its control of the Worcester Consolidated Company, also controls the Springfield Street Railway Company (through ownership of the common shares of the Springfield Railway Companies, a voluntary association), the Milford, Attleborough and Woonsocket Street Railway Company, the Interstate Consolidated Street Railway Company, the Attleborough Branch Railroad Company, the Worcester and Webster Street Railway Company and the Webster and Dudley Street Railway Company, the last two named companies being leased to the Worcester Consolidated Street Railway Company.

The Treasurer and Secretary of the Investment Company also fill the corresponding positions in the various companies controlled by the Investment Company. One-third of their salaries is paid by the Investment Company, and the balance of their salaries is charged, in the first instance, to the Spring-

field Street Railway Company. The Springfield Street Railway Company pays the rent of the offices in Springfield, used in common by all the companies, collecting from the Investment Company on account of the rent \$100 a month. All of the other general office expenses of the various operating companies, including two-thirds of the salaries of the Treasurer and Secretary, clerical expenses, including expenses of the accounting and engineering and purchasing departments, and other expenses beneficial to all the operating companies, are paid in the first instance by the Springfield Street Railway Company and then apportioned to the other operating companies on a table of percentages, based on the relative car mileage of the different companies. This table is made up once a year, and at the present time the apportionment of percentages is as follows:—

	Per Cent.
Worcester Consolidated,	50.82
Springfield,	43.13
Milford, Attleborough & Woonsocket,	2.46
Interstate Consolidated,	3.22
Attleborough Branch Railroad, . . . . .	.37

The salaries of the President, Vice President and General Manager of each company, as well as of some other officers whose services are more particularly rendered to special companies, are paid directly by the companies to whom the services are rendered.

The salaries of the President, Vice President and General Manager of the Worcester Consolidated Company are \$8,000, \$1,967.40 and \$5,343.60 respectively. The sum charged to that company on account of the salaries of the Treasurer, Auditor and certain other general officers is also moderate in amount.

The capital stock, funded debt and unfunded debt of the company on December 31, 1918, was as follows:—

Preferred stock,	\$3,600,000
Common stock,	3,326,000
Bonds,	4,833,000
Notes payable,	947,100

All of the stocks and bonds have been issued under public supervision except a few of the earlier issues, prior to 1894. The integrity of these, however, was established by subsequent appraisals. In the case of various issues of stock, the price at which it should be offered to stockholders was fixed at figures

above par, and premiums amounting to \$227,296 were paid in. As the approval of the Commission is not required for the issue of short-time notes, no detailed investigation has been made of the expenditures represented by the outstanding notes of the company, amounting to \$947,100. The Chief Accountant of the Commission, however, from his general knowledge of the accounts of the company has reported that approximately 75 per cent in amount of these notes represents additions and betterments to property which might be capitalized.

Of the 240 miles of main track owned by the company, over 80 miles are located in the city of Worcester. As nearly as can be estimated, the Worcester city lines contribute about 71 per cent of the company's total passenger traffic. The cost per mile of main track of the company (including the cost, but not the length of side-track) was on December 31, 1917, \$54,552, a little less than the average, \$54,733, of all the companies, excluding the Boston Elevated, in the State. This figure seems a reasonable one in view of the large mileage, about one-third of the total, located in the city of Worcester. The company has paid dividends in every year since 1887 until the year 1918, when no dividend was paid. From 1887 to 1900, these varied from a minimum of 3 per cent to a maximum of 8 per cent on par value and from 1901 to 1917, inclusive, from 5 per cent to 6½ per cent. The average rate of dividend-return upon the total stock-investment from 1887 to 1918 inclusive has been 4.91 per cent and in recent years has been as follows:—

YEAR ENDED —	Per Cent earned on Total Stock Investment.
June 30, 1912,	6.22
June 30, 1913,	5.26
June 30, 1914,	6.22
June 30, 1915,	5.26
June 30, 1916,	4.81
Dec. 31, 1916,	4.84
Dec. 31, 1917,	5.17
Dec. 31, 1918,	—
Average for above period,	4.57

The depreciation reserve on December 31, 1918, was \$262,985, but the company had a corporate surplus on the same date of

\$328,941, and the returns show that since 1913 it has reduced property accounts \$322,649 by charges to profit and loss. As indicated by the foregoing figures, the company has been conservative in its accounting. Until very recently its property has been well maintained, and while the provision for depreciation has not been adequate, it is relatively higher than that of most street railways in the Commonwealth.

The following table shows the operating revenue in each of the years since the final consolidation of constituent companies and the percentage of increase from year to year: —

YEAR ENDED —	Operating Revenue.	Increase.	Per Cent Increase.
June 30, 1912,	\$2,507,841 21	—	—
June 30, 1913,	2,673,254 65	\$165,413 44	6.18
June 30, 1914,	2,770,832 15	97,577 50	3.65
June 30, 1915,	2,729,974 40	40,857 75*	1.47*
June 30, 1916,	2,987,095 60	257,121 20	9.42
Dec. 31, 1916,	3,167,458 44	180,362 84 ¹	6.04 ¹
Dec. 31, 1917,	3,349,075 33	181,616 89	5.73
Dec. 31, 1918,	3,328,704 67	20,370 66*	.61*

* Decrease.

¹ Six months.

Operating expenses and the ratio of expenses to revenue have been as follows: —

YEAR ENDED —	Operating Expenses.	Increase.	Per Cent Increase.	Operating Ratio.
June 30, 1912,	\$1,594,843 20	—	—	63.59
June 30, 1913,	1,807,207 03	\$212,363 83	13.32	67.60
June 30, 1914,	1,875,537 16	68,330 13	3.78	67.69
June 30, 1915,	1,886,860 04	11,322 88	.60	69.12
June 30, 1916,	2,055,319 15	168,459 11	8.93	68.81
Dec. 31, 1916,	2,193,685 29	133,366 14 ¹	6.73 ¹	69.26
Dec. 31, 1917,	2,427,050 72	233,365 43	10.64	72.47
Dec. 31, 1918,	2,766,836 56	339,785 84	14.00	83.13

¹ Six months.

Owing to general economic conditions with which all are familiar the operating expense has increased much more rapidly than the operating revenue. This has been true especially during

the two-year period from 1916 to 1918 when the operating revenue increased by only 5.09 per cent, while the operating expense increased by 26.12 per cent. At the hearings the company presented evidence showing the net income, with December estimated, for the twelve months ending December 31, 1918, was \$112,683, which, in the company's official return of the actual results for the year, has been corrected to \$124,200, as against the net income for the year 1917 of \$408,280. With the exception of a small loss of \$20,370 in gross revenue and a net increase of \$17,727, in interest on unfunded debt, the total loss of \$284,079 of net income for the year 1918 as compared with the year 1917, was entirely occasioned by increased operating expenses. The increase in operating expenses was even greater than the loss in net income, owing to the fact that there was a substantial reduction in taxes. The actual increase in operating expenses amounted to \$339,785, the largest single item being an increase of \$114,540 in the cost of conducting transportation. This, of course, reflected the increase in wages for the last seven months of 1918, resulting from the award in the arbitration mentioned above. The company also submitted a statement showing the prices and amounts spent, and a typical list of materials needed, in the operation of the railway for the year ended December 30, 1914, just prior to the outbreak of the European war, and for the year ended December 31, 1918. This statement showed the total expenditure for such materials in the earlier year amounting to \$161,774.44, and in the latter year \$303,160.25. The statement also showed the percentage of increase of each item entering into the list and gave as the percentage of increase in prices paid for the materials bought in 1918 over what the same quantities of materials would have cost in 1914, as 105 per cent. (Exhibit 9.)

The company manufactures part of the electric current for the operation of its railway and purchases the balance required in such operation, from the New England Power Company. Its contract with the latter company expired July 1, 1918, and could only be renewed at considerably higher rates. Its own cost of manufacturing power was considerably increased by the higher wage scale and the higher cost of coal. These elements of increase, with the effect of the new contract with the Power Company which was reflected only during the last six months of the year, amounted to \$106,336.

The company estimated that the increased cost per passenger in 1918, as compared with 1914, for only the three items of

payroll, materials and supplies, and power was 1.63 cents, divided as follows: payroll 1.07 cents, materials and supplies .239 cents, and power .323 cents.

At the first hearing the company submitted an estimate (Exhibit 2) of the revenue required for the year 1919. It also submitted estimates of its operating expenses for 1919, showing an estimated total of \$3,033,900, together with detailed estimates of the more important items of operating expense (Exhibit 3, Blue Prints Nos. 18-24). The company also submitted an estimate of the gain of \$405,000 which it calculated would be derived from the increase in fares to seven cents (Exhibit 4) and a statement of its receipts by months, and the number of passengers carried by months, in each of the years 1917 and 1918 (Exhibit 5). These various estimates were referred to the accounting department of the Commission for examination and criticism; the department examined the books, vouchers and records of the company and the report of the chief accountant dated February 8, 1919, is on file in the office of the Commission. That report confirmed the company's return of its operating expenses for 1918 and found the estimates for 1919 to be conservative. Figures submitted by the company since the hearings were closed, showing actual operating expenses for January and February, 1919, also indicate that these expenses for the entire year will equal, if they do not exceed, the estimate made by the company.

Moreover, upon the basis adopted by the Commission for determining the approximate depreciation requirements of the several street railway companies in connection with its recent report to the General Court on the Street Railway Situation of the Commonwealth, the estimate of operating expense submitted by the Worcester Consolidated company for 1919 should be increased by \$171,964 in order to make suitable provision for depreciation. (House Document No. 1431 of 1919, pp. 12-13, 49.)

In addition to meeting its operating expenses, the company on the basis of last year's figures will have to provide \$182,121.87 for the payment of taxes, rentals of leased roads and miscellaneous fixed charges. Interest on the funded debt and so much of the unfunded debt as might be capitalized represents an additional sum of \$268,026. If the dividend return is figured, as in the Springfield rate case, on the basis of 6 per cent on the par value of outstanding stock plus all premiums paid thereon, it would amount to \$429,197.76. On the precedent of the Spring-

field case the company in its estimate of revenue requirements for the present year has also included a contingency item amounting to 1 per cent of its gross expense.

The next inquiry suggested is whether the estimated expense for the current year can be reduced by economies in management and operation. In its rate investigations of some of the other larger companies the Commission has had the benefit of traffic surveys and reports on operation made by special experts employed by the companies or by the Commission. In the present case the company, as far as we are aware, has had no similar investigation made in its own behalf and the Commission has neither had the time nor the means to make an adequate study of traffic conditions upon this system. From our general knowledge of the company's affairs, however, we are not disposed to regard the Worcester company as superior in efficiency of management and operation to the affiliated Springfield company. It is reasonable to assume, therefore, that economies of operation such as were suggested by the Commission in the Springfield rate case are possible also in the case of the Worcester company. While we have no adequate basis for estimating the amount which might be saved in this way we believe that possible improvements in the utilization of existing facilities might be fairly offset against any claim of the company for a contingency allowance in its estimate of expenses for the present year.

With this exception we believe that the items of expense enumerated above may be regarded as reasonable and proper. The requirements of the company for the year 1919 may therefore be summarized as follows: —

Operating expenses,	\$3,033,900 00
Additional charge for depreciation,	171,964 00
Interest on funded and unfunded debt,	268,026 00
Taxes and other fixed charges,	182,121 87
Return on stock investment,	429,197 76
	<hr/>
	\$4,085,209 63

For the year 1918 the company's miscellaneous railway revenue and non-operating income amounted to \$171,340.15. If we assume a similar amount for the present year and deduct this sum from the company's total revenue requirements, the balance which the public may reasonably be required to pay in the form of passenger fares amounts to \$3,913,869.48.

Before attempting to determine the amount of revenue which the company would be likely to receive for the year 1919 under existing fares it may be useful to show the fluctuations by months in passenger traffic and passenger revenue since January 1, 1917. These figures are given in the following table:—

	PASSENGERS.			REVENUE.		
	1917.	1918.	1919.	1917.	1918.	1919.
January,	5,128,261	4,778,103	4,610,664	\$253,923	\$236,277	\$269,312
February,	4,592,084	3,979,701	4,232,187	224,848	196,112	247,471
March,	5,262,743	5,000,160	4,653,130 ¹	257,756	244,888	275,000 ¹
April,	5,096,180	4,900,044	—	252,061	242,002	—
May,	5,341,335	5,410,924	—	261,485	265,682	—
June,	5,595,122	5,497,294	—	274,774	269,677	—
July,	6,279,669	5,532,401	—	314,214	292,615	—
August,	6,070,339	5,475,025	—	301,680	328,833	—
September,	5,684,171	5,008,357	—	281,775	298,202	—
October,	5,353,009	4,058,974	—	263,650	240,667	—
November,	5,105,844	4,661,926	—	250,718	273,702	—
December,	5,382,432	4,772,805	—	264,882	281,716	—
Totals,	64,891,189	59,075,714	13,495,981 ²	\$3,201,766	\$3,170,373	\$791,783 ²

¹ Approximate.

² Three months only.

As shown above, the passenger revenue for 1918 amounted to \$3,170,373. The revenue for 1919 under present fares is likely to be substantially in excess of that amount. In order to reach any proper comparative basis allowances should be made for losses of revenue last year, due to the exceptionally severe weather conditions and consequent interruptions of service during the earlier months, to the effects of the influenza epidemic which was most acute during the month of October, and to the fact that fares during the first seven months were on a 5-cent instead of a 6-cent basis. If passenger traffic during the first quarter of the calendar year had been in the same proportion to the traffic of the second quarter in 1918, as in the previous year, 1,015,437 additional passengers would have been carried. As the average fare then paid was slightly under 5 cents, the loss of revenue due to weather conditions may be estimated at \$50,000.

The increase in revenue under a 6-cent fare from August 1 to the end of the year, excluding the month of October, was 7.6 per cent as compared with the same months of the previous

year when a 5-cent fare was in effect. The revenue for the first seven months of 1918, adjusted by the item of \$50,000 referred to above, amounted to \$1,797,253. If a 6-cent fare had been in effect during that period we may assume that this amount would have been increased by 7.6 per cent, or \$136,591.

The effect of the influenza epidemic is shown by the number of passengers carried in October, 1918, compared with those carried during the remaining four months of that year when the same fare was in effect. If the passenger traffic of 1918 had been in the same proportion to the traffic of the previous year in October as in the other four months, the number of passengers carried in October, 1918, would have been increased by 693,870. At 5.91 cents each, which is the average fare now paid by revenue passengers, this represents a loss, which may fairly be ascribed to the influenza epidemic, of \$41,008. Making these various adjustments, we obtain a total of \$3,397,972, which seems to be a fair estimate of the revenue that the company would have received in 1918 under present fares and normal weather and health conditions.

Unless there is evidence of a change in general riding characteristics that figure may be taken to represent the passenger revenue which the company is likely to receive in 1919. Since the company's tariffs were filed, figures have been received showing that the company's actual passenger revenue for the first three months of the present year has amounted to \$791,783. The revenue for the same three months last year, adjusted, as described above, to present fares and normal weather conditions, amounted to \$782,550. On the basis of these three months, the revenue for 1919 is now showing an increase of 1.18 per cent over the adjusted 1918 figures. If the same percentage should continue during the remainder of the year the total revenue for 1919, under present fares, would amount to \$3,438,068, a sum which is insufficient by \$475,801 to meet the demonstrated revenue requirements of the company.

The remonstrants did not seriously controvert the company's need of a substantial increase in revenue, but chiefly pressed two considerations against the proposed tariffs becoming effective at this time.

First. — It was urged on behalf of the City of Worcester that with the return of men from the front and the resumption of normal peace conditions, the business of the company would be increased to such an extent as to yield sufficient revenue with the present 6-cent fare.

Second. — The Commission was requested, if it found that additional revenue was necessary, that instead of a uniform 7-cent cash rate in each zone, it should require the company to sell strip tickets at a reduced rate. The rate for these tickets most frequently suggested was 8 tickets for 50 cents, making the rate per single ride $6\frac{1}{4}$ cents.

As to the first suggestion, it is of course possible that the return of our military forces from overseas service or other conditions may tend to increase traffic, but there may also be offsetting considerations due to the slackening of industrial activities on account of the termination of war contracts or to other causes. At any rate, in the face of proof that revenue sufficient to meet the company's legitimate requirements is not being obtained under present rates, it is doubtful whether the Commission under the decisions of courts in rate cases would have the power to refuse an increase of rates because of speculative possibilities of what might be realized in the future. It is true that estimates of revenue requirements which have been carefully made upon the best evidence available in other cases have not always proved reliable, and that conditions constantly arise, affecting both revenue and cost of operation, which could not reasonably have been foreseen and provided for. The estimate, given above, of the revenue deficiency of the company for the current year under present fares is therefore to be regarded as approximate only. The company, however, has already been operating for more than eight months on a 6-cent fare and the actual results of operation, even if due allowance is made for special conditions affecting the business of the company, furnish no substantial basis for belief that the present fare would yield the necessary revenue for the year 1919. Upon all the evidence we are of the opinion that the company is entitled to an increase above existing rates which will yield at least \$400,000.

As already pointed out, the tariffs filed by the company make no change in the present fare zones, but provide for an increase in the unit of fare from 6 cents to 7 cents and an increase of 40 per cent in the charges for workingmen's tickets. In the estimate submitted by the company of the gain in revenue to be obtained by increasing fares from 6 cents to 7 cents, the assumption was made that this increase in fare would result in a 10 per cent loss of traffic. It is true that the experience of street railway companies in the recent past under similar rate-increases

might seem to justify this assumption, but where the rates have remained stationary the loss of traffic in certain cases has been almost as great. While increases in rates undoubtedly tend to discourage travel, it is clear from an analysis of the operating results of the various companies that general economic conditions prevailing while the country was in a state of war resulted in a steady decline of traffic wholly apart from any effect which may be attributed to increases of rates. The records of traffic of the various street railway companies for recent months seem to indicate that this downward trend has been arrested and that traffic is tending gradually to increase. This view is advanced with caution as the increases shown may merely reflect the favorable weather conditions of recent months and further data are necessary before any definite conclusion can be reached. It is a fact, however, that passenger traffic during the first quarter of this year as compared with the same quarter of last year has in general shown a substantial increase not only under the same fares but in certain cases where the fares have been increased. In view of this fact it does not seem to us that we can reasonably accept the company's speculative estimate of future traffic losses as a basis for determining how large an increase in fares may be allowed, especially as these estimates, in the light of actual results of operation during the portion of the year that has already elapsed, are shown to be wide of the mark. Rather, if this line of inquiry is open, we may assume that any traffic loss from a moderate increase in fares will be offset by the increased street railway patronage which is likely to result, especially in a large and prosperous city showing a steady growth in population, such as the city of Worcester, from the return of business and social conditions to a normal peace basis.

If no allowance is to be made for traffic loss, an increase of the present fare from 6 cents to 6.7 cents would yield the needed additional revenue. This result may be accomplished by fixing the cash fare at 7 cents and providing for a $6\frac{1}{2}$ -cent ticket rate through the sale of 10 tickets for 65 cents. The experience of other companies with similar tickets indicates that approximately 60 per cent of the company's patrons will purchase tickets and the remainder will pay the cash fare. If this estimate is correct, the average fare will be just 6.7 cents.

In providing for this rearrangement of fares, the Commission was impressed by the arguments urged in favor of the sale of

tickets at a reduced rate from the straight cash fare. The Mayor and City Solicitor of Worcester, the Mayor of Fitchburg and others urged with great earnestness the desirability of some such modification in the proposed tariffs if any increase were found to be necessary. They pointed out, and the company's representative admitted, the value to the company of the goodwill of the community which it serves. The Commission recognized the force of their arguments that the cheerful acceptance on the part of the public of higher fares, shown to be necessary, and a spirit of co-operation between the public authorities and the management of the company, can contribute in many ways to increase the revenue of the street railway. In the belief that such co-operation will result from some modification of the tariff by the sale of reduced rate tickets, and that the result of such co-operation may be to provide the company with sufficient revenue, notwithstanding the use of reduced rate tickets, to enable it to meet its financial requirements, the Commission has decided to adopt the principle of the reduced rate ticket urged on behalf of the city of Worcester. It was suggested that these tickets be sold in strips of 8 for 50 cents, as is now done by the Fitchburg and Leominster company. We hoped that a similar arrangement might be possible in this case, but our investigation shows that the requirements of the company cannot be met under a ticket rate of $6\frac{1}{4}$ cents.

The tickets for which we have provided are intended to benefit regular riders, by furnishing them transportation at a lower rate than the flat cash fare charged to occasional riders. As regular riders travel daily between their homes and places of business, the strip of 10 tickets will not involve a heavy or long time investment, in order to secure the advantage of the reduction in rate. As these tickets are simple in character and can be easily handled and sold by the conductors, without additional difficulty on their part, or interference with the collection of fares and operation of the cars, we think the company should arrange for the sale of the tickets by the conductors. In view of the fact that existing fare zones have not been changed, the rates provided for do not appear to be in excess of those generally prevailing throughout the Commonwealth.

When the company's regular fares were increased last year from 5 cents to 6 cents, no increase was made in the rates for workingmen's tickets. The company now proposes that these rates be advanced proportionately to the increase in the regular fare from 5 cents to 7 cents, which is equivalent to 40 per cent.

As, under the finding made above, the average passenger rate, exclusive of workingmen's tickets, is to be 6.7 cents instead of 7 cents, a corresponding modification should be made in the rates proposed for workingmen's tickets by providing for an increase in existing rates of $33\frac{1}{3}$ per cent instead of 40 per cent.

It will be necessary for the company to cancel its pending schedules now under suspension so far as they are inconsistent with the basis of fare herein prescribed. If the company files a supplementary schedule of rates in conformity with the said basis of fare, such new schedule will, after approval by the Commission of form and detail, be permitted to take effect upon short notice. An order to this effect is entered below.

ORDER.

It appearing that by successive orders of the Commission dated February 4, 1919, March 7, 1919, and March 28, 1919, respectively, the rates and charges described in tariff M. P. S. C. No. A-4 and Supplement No. 1 to M. P. S. C. No. A-4 of the Worcester Consolidated Street Railway Company have been suspended until April 15, 1919, unless otherwise ordered;

And it further appearing that a full investigation of the matters and things involved in said tariffs has been had, and that the Commission on the date hereof has made and filed a report containing its findings of fact and conclusions thereon, which said report is herein referred to and made a part hereof, —

It is

Ordered, That the Worcester Consolidated Street Railway Company be hereby notified and required to establish on all its lines, within thirty days of the date hereof, upon not less than three days' notice to the Commission and the general public by filing and posting in a conspicuous manner in its waiting-rooms and cars, in the manner prescribed in section 20, chapter 784 of the Acts of 1913, a schedule readjusting its rates and fares for the transportation of passengers upon the following basis: —

(1) All fare limits and transfer privileges shall remain the same as at present.

(2) The cash fare for each single ride between fare limits shall be seven cents.

(3) Tickets in strips of ten for sixty-five cents shall be sold by conductors on the cars, each of said tickets to be good between existing fare limits in the same manner as a seven-cent cash fare.

(4) Special tickets in strips of five for thirty cents shall be sold, good only between Plummer's corner and Whitinsville.

(5) All workingmen's tickets, so-called, shall be increased by approximately thirty-three and one-third per cent.

(6) Pupils' tickets shall be issued, under proper restrictions and in accordance with the provisions of the statute, in strips of ten for thirty-five cents.

(7) All outstanding tickets shall be redeemed at the old rate at the offices of the company;

It is

Further ordered, That the Worcester Consolidated Street Railway Company be and is hereby notified and required to cancel the rates and charges stated in the tariffs specified in said orders of suspension, so far as they are inconsistent with the basis of fare herein prescribed;

And it is

Further ordered, That a copy of this order be filed with said tariffs at the office of the Commission and that a copy hereof be forthwith served on the Worcester Consolidated Street Railway Company.

By the Commission,

ANDREW A. HIGHLANDS,

APRIL 14, 1919.

[P. S. C. 2353.]

Secretary.

TELEPHONE TOLL SERVICE.

Notices of changes in rates for telephone toll service within Massachusetts in accordance with Telegraph and Telephone Bulletin No. 22, Order No. 2495, of the Postmaster-General of the United States, filed by the New England Telephone and Telegraph Company, the Highland Telephone Company, the Heath Telephone Company and the Providence Telephone Company of Massachusetts.

On July 16, 1918, Congress adopted a resolution (see Appendix A) empowering the President to take possession and assume control of telephone and telegraph properties during the war, for a period not to extend beyond the date of the proclamation by the President of the exchange of ratifications of the treaty of peace. Under authority of this resolution, all properties of this character in the country were taken over on July 31, 1918, by virtue of a proclamation of the President dated July 22, 1918, which directed that the supervision, possession, control and operation of such telegraph and telephone systems should be exercised by and through the Postmaster-General, Albert S. Burleson.

By Order No. 1744 of the Postmaster-General, dated July 23, 1918, John C. Koons, First Assistant Postmaster-General, David J. Lewis, Commissioner, United States Tariff Commission, and William H. Lamar, Solicitor of the Post-Office Department, were appointed "a committee for the Governmental management, operation and control of the telegraph and telephone systems covered by the proclamation of the President dated July 22, 1918", the Postmaster-General being the chairman of this committee. On October 5, 1918, the proposal of the American Telephone and Telegraph Company, in behalf of itself and of the constituent companies comprising the Bell system, with respect to just compensation for the use of the properties owned by it and by these other companies during the period of Federal control was accepted by the Postmaster-General, and on October 15, 1918, the board of directors of the

New England Telephone and Telegraph Company formally joined in this proposal which had thus been accepted. We are informed that similar contracts have been or are to be made with the Heath Telephone Company, the Highland Telephone Company and the Providence Telephone Company of Massachusetts.

On December 13, 1918, more than a month after the signing of the armistice, the Postmaster-General issued an order (Telegraph and Telephone Bulletin No. 22, Order No. 2495) directing that comprehensive changes in telephone toll rates be made throughout the country. On December 21, 1918, a schedule embodying these changes, in the case of toll service within the commonwealth, was filed by the New England Telephone and Telegraph Company with this Commission, effective January 21, 1919, and similar schedules were filed by the Heath Telephone Company, the Highland Telephone Company and the Providence Telephone Company of Massachusetts. On January 9, 1919, the Commission gave notice that a public hearing upon these proposed new schedules would be held on January 17, 1919, and sent a communication to the Postmaster-General (see Appendix B) stating that it could not, in good faith with the people of Massachusetts, allow the new rates to become effective with its approval until they had been shown to be just and reasonable.

At the public hearing, Matt B. Jones, then vice-president and now president of the New England Telephone and Telegraph Company, appeared for the Postmaster-General and read into the record a letter (see Appendix C) which the Commission had received from W. H. Lamar, Solicitor for the Post-Office Department, and a member of the committee for the governmental management, operation and control of the telegraph and telephone systems. The hearing continued throughout the day and upon notification that Mr. Jones wished to present additional evidence, it was adjourned until January 30, 1919, the earliest available date, the Commission announcing that the taking effect of the new schedules would be suspended, under the provisions of section 21 of chapter 784 of the Acts of 1913, pending further investigation and the decision thereon.

On January 20, 1919, an order was duly issued by the Commission suspending the taking effect of the new schedules until February 20, 1919. The Postmaster-General was forthwith notified by wire that such an order had been issued and copies were served by mail upon him and upon the companies involved.

Notwithstanding this order, and in direct violation of its provisions, the rates so suspended were placed in effect on January 21, 1919, have been in effect ever since, and are in effect now. In accordance with section 28 of chapter 784 of the Acts of 1913, the Commission directed the attention of the Attorney-General to this violation of its order, and of the law of the commonwealth, and requested him to begin at once an action or proceeding in the Supreme Judicial Court of Massachusetts in the name of the Commission for the purpose of having such violation stopped and prevented, either by mandamus or injunction. Proceedings of this nature have been instituted by the Attorney-General and are now pending.

The entire disregard by the Postmaster-General of the suspension order entered by the Commission in accordance with the laws of the commonwealth, made it clear that the primary issue to be considered is one of jurisdiction, and that it would be undesirable to undertake an extensive investigation, with a view to determining whether or not the new rates are just and reasonable, until this question is settled. The representative of the Postmaster-General in this matter, Mr. Jones, agreed with this conclusion, and in order that this issue might be raised in the most definite manner and determined promptly, he directly challenged and denied the jurisdiction of the Commission in the premises, at the continued hearing on January 30, 1919, and rested his case upon this denial and upon the letter of the Solicitor for the Post-Office Department referred to above. His action was taken, however, upon the understanding that, if the jurisdiction of the Commission should be sustained by the courts, either the Postmaster-General, or the companies if they should then be in private control, should be free without prejudice to file schedules of rates similar to those which have now been placed in effect, as we believe illegally, and submit evidence to prove their justice and reasonableness.

In the opinion of the Commission its jurisdiction in the premises, which certainly existed prior to the resolution of Congress, was preserved by that resolution. The final proviso reads as follows:—

Provided further, That nothing in this Act shall be construed to amend, repeal, impair, or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications, or the issue of stocks and bonds by such system or systems.

There are many decisions of the United States Supreme Court indicating that the public supervision of rates charged by a public utility company is an exercise of police powers and covered by the designation, "lawful police regulations." It is obvious, also, that such supervision by this Commission in the present instance would in no way "affect the transmission of Government communications, or the issue of stocks and bonds" by the telephone companies. Nor is there anything in the history of the legislation to indicate that it was the intent of Congress to set aside or nullify the powers of the States over telephone charges. It is a matter of common knowledge that the resolution was adopted because of the danger that telegraph service would be interrupted by labor troubles, and it was clearly the desire of Congress to insure continuity of both telegraph and telephone service during the war, rather than to inaugurate, under Government auspices, revolutionary changes in methods of charging.

Under the circumstances, since the immediate question is one of jurisdiction, it is unnecessary either to describe or to discuss the new rates at any length. It may be said that, in Massachusetts and throughout the entire territory which the New England Telephone and Telegraph Company serves, it is conceded that they represent a substantial increase in charges. Attention is called also to the fact that it is stated in the letter of Solicitor Lamar (see Appendix C) that the main purpose of the new schedule is to remove the "many inconsistencies and irregularities which heretofore have existed in the toll schedules of telephone companies in many parts of the United States" and to standardize the rates from a nation-wide standpoint, so that between any two points in any part of the country they would be "exactly the same as between any two equi-distant points in any other part of the country." The effect on revenues was not "the prime consideration for the schedule," and the Postmaster-General was not advised as to the effect upon the revenues of the New England Telephone and Telegraph Company. Of this reasoning it is sufficient to say that it does not seem to the Commission by any means self-evident that the toll rates between two points in the thickly-settled territory of Massachusetts should necessarily be the same as the rates between any two equi-distant points in some dissimilar part of the country, that we know of no public demand for such a standardization, and that we are not aware of any inconsistencies or irregulari-

ties in the toll schedules which have heretofore existed in Massachusetts which have caused complaint from patrons or have been prejudicial to the proper operation of the telephone properties.

As the record is now left, however, and for the purpose of testing at once the question of jurisdiction, the Commission finds that the burden of proof imposed by section 21 of chapter 784 of the Acts of 1913, in the case of proposed changes in rates, has not been sustained by the Postmaster-General or by the companies, and that the telephone toll schedules which were in actual effect in Massachusetts prior to January 21, 1919, and which are still, as we believe, in legal effect, are just and reasonable and embody the rates which should be charged by the companies in question. An order to this effect is entered below. It is entered without prejudice to the right of any party in interest, after the question of jurisdiction has been determined, to present to the Commission further evidence as to the reasonableness either of the old or the new rates under consideration.

ORDER.

Notices of changes in rates for telephone toll service within Massachusetts in accordance with Telegraph and Telephone Bulletin No. 22, Order No. 2495, of the Postmaster-General of the United States, filed by the New England Telephone and Telegraph Company, the Highland Telephone Company, the Heath Telephone Company and the Providence Telephone Company of Massachusetts.

It appearing that on December 21, 1918, the New England Telephone and Telegraph Company, the Heath Telephone Company, the Highland Telephone Company and the Providence Telephone Company of Massachusetts issued and filed with this Commission schedules of rates for telephone toll service within the commonwealth, effective January 21, 1919, each of which was designated "Basic Toll Rate Schedule, issued in accordance with Telegraph and Telephone Bulletin No. 22, Order No. 2495 of the Postmaster-General of the United States;" that the Commission entered upon an investigation concerning the justice and reasonableness of the rates proposed in said schedules, duly notifying and holding public hearings on January 17, 1919, and on January 30, 1919; and that the Commission, by an order dated January 20, 1919, entered in accordance with section 21

of chapter 784 of the Acts of 1913, suspended the taking effect of said schedules of rates until February 20, 1919, pending further investigation and the decision thereon.

It further appearing that a full investigation of the matters and things involved has been had and that the Commission, under date hereof, has made a report containing its findings of fact and of law and conclusions thereon, which said report is hereby referred to and made a part hereof, —

It is

Ordered, That the carriers respondent herein and designated in said schedules, namely, the New England Telephone and Telegraph Company, the Heath Telephone Company, the Highland Telephone Company, and the Providence Telephone Company of Massachusetts be, and they are hereby, notified to cancel forthwith the rates and charges stated in the schedules specified above and in said order of suspension, which rates and charges have been found by the Commission to be unjust and unreasonable.

It is

Further ordered, That said respondents be and they are hereby notified and required to put in force and effect forthwith, and thereafter to maintain within the commonwealth of Massachusetts, the rates and charges for telephone toll service which were in effect prior to January 21, 1919, and which are stated in the schedules now on file in the office of this Commission as the lawful rates and charges within the commonwealth for such service, which rates and charges have been found by the Commission to be just and reasonable.

It is

Further ordered, That copies of this order be filed at the office of the Commission with the schedules herein ordered to be cancelled, and that copies hereof be forthwith served upon the New England Telephone and Telegraph Company, the Heath Telephone Company, the Highland Telephone Company and the Providence Telephone Company of Massachusetts, and upon the Postmaster-General of the United States.

By the Commission,

ANDREW A. HIGHLANDS,

JANUARY 31, 1919. [P. S. C. 2350]

Secretary.

APPENDIX A.

PUBLIC RESOLUTION No. 38, 65th CONGRESS.

[H. J. Res. 309.]

TO AUTHORIZE THE PRESIDENT, IN TIME OF WAR, TO SUPERVISE OR TAKE POSSESSION AND ASSUME CONTROL OF ANY TELEGRAPH, TELEPHONE, MARINE CABLE, OR RADIO SYSTEM OR SYSTEMS OR ANY PART THEREOF AND TO OPERATE THE SAME IN SUCH MANNER AS MAY BE NEEDFUL OR DESIRABLE FOR THE DURATION OF THE WAR, AND TO PROVIDE JUST COMPENSATION THEREFOR.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President during the continuance of the present war is authorized and empowered, whenever he shall deem it necessary for the national security or defense, to supervise or to take possession and assume control of any telegraph, telephone, marine cable, or radio system or systems, or any part thereof, and to operate the same in such manner as may be needful or desirable for the duration of the war, which supervision, possession, control or operation shall not extend beyond the date of the proclamation by the President of the exchange of ratifications of the treaty of peace: *provided*, That just compensation shall be made for such supervision, possession, control or operation, to be determined by the President; and if the amount thereof, so determined by the President, is unsatisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined by the President and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation therefor, in the manner provided for by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code: *provided further*, That nothing in this Act shall be construed to amend, repeal, impair, or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications, or the issue of stocks and bonds by such system or systems. [July 16, 1918.]

APPENDIX B.

LETTER TO THE POSTMASTER-GENERAL OF THE UNITED STATES.

PUBLIC SERVICE COMMISSION, BOSTON, JANUARY 9, 1919.

HON. ALBERT S. BURLESON, *Postmaster-General of the United States*,
Washington, D. C.

DEAR SIR:—On December 21, 1918, the New England Telephone and Telegraph Company filed with this Commission a basic toll rate schedule issued in accordance with your Telephone and Telegraph Bulletin

No. 22, Order No. 2495, and effective January 21, 1919. This schedule provides for so large and so general an increase in charges within Massachusetts that the Commission has felt that it ought not to permit the new rates to go into effect, with its approval, until cause has been shown. For this reason it has set the matter down for public hearing on Friday, January 17, 1919, at 10.30 A.M., the hearing to be held at the office of the Commission at No. 1 Beacon Street, Boston, in order that an opportunity may be given to representatives of the company or to your own representatives to explain the reasons for the change. We have been reluctant to take this step, for the Commission has been desirous of helping you in the successful administration of the telephone properties in every way that we could. The increases proposed, however, are very substantial and it has not seemed to the Commission that it could, in good faith with the people of Massachusetts, give its sanction to the new schedule until it had been shown to be just and reasonable.

Very truly yours,

(Signed)

FRED J. MACLEOD,
Chairman.

APPENDIX C.

LETTER OF THE SOLICITOR OF THE POST OFFICE DEPARTMENT.

POST OFFICE DEPARTMENT, OFFICE OF THE SOLICITOR,
WASHINGTON, January 15, 1919.

HON. FRED J. MACLEOD, *Chairman, Public Service Commission of Massachusetts, 1 Beacon Street, Boston, Massachusetts.*

DEAR SIR: — I beg to acknowledge receipt of your letter of January 9, 1919, addressed to the Postmaster General, and advising that your commission will hold a hearing on Friday, January 17, 1919, in the matter of the toll rates prescribed in Bulletin No. 22, Order No. 2495, issued by the Postmaster General on December 13, 1918, which was duly filed by the New England Telephone and Telegraph Company with your commission to become effective January 21, 1919.

While the New England Company, which, as you are aware, is now and ever since August 1, 1918, has been operating its properties for the account of the Government and not for the benefit of its stockholders, will represent the Postmaster General at your hearing and present the case on its merits, it may not be amiss for me to say that the main purpose of said schedule of rates as embodied in Bulletin No. 22 was to remove the many inconsistencies and irregularities which heretofore have existed in the toll schedules of telephone companies in many parts of the United States, and to treat the subject from a nation-wide standpoint so that the rates for toll and long distance service between any two points in any part of the country would be exactly the same as between any two equidistant points in any other part of the country. The particular rates in

this schedule in Bulletin No. 22, as well as the general basis of the structure, were the result of an exhaustive study covering several months by the committee on standardization of rates in this Department, and the general scheme represents, we believe, the best effort that has been devised to place this vital matter of the telephone toll service of the entire country on a unified and scientific basis.

Owing to the multitude of irregularities and inconsistencies heretofore obtaining in the toll schedules of the different companies, which grew up over a long period of years by reason of local conditions and the varying views of telephone officials, each of whom saw the proposition from the standpoint of his own particular company, it is obvious that any scheme of standardizing the rates from a nation-wide standpoint must result in the lowering of rates in some places and the raising of rates in others, with the corresponding inevitable effect of increasing or diminishing the revenues in particular localities, but such effect on revenues was not the prime consideration for the schedule, and as a matter of fact the Postmaster General is not advised as to what may be the effect on the revenues of the New England Company in Massachusetts.

It appeared to be the consensus of opinion of those best versed in telephone affairs that there should be a unification and standardization of telephone rates throughout the country, and that the first step in such a problem was the establishment of a unified and comprehensive schedule of rates for toll and long distance service, and the schedule in question embodies the effort to make that first step.

As in the view of the Postmaster General the prime purpose of this schedule is to place the toll service throughout the entire country on the same basis, and, inasmuch as the telephone using public in Massachusetts will pay thereunder for such service exactly the same rates as will the telephone using public in every other state of the Union for similar service, leaving no room for there being any question of discrimination against the telephone using public of Massachusetts, it would seem unfortunate that any attempt should be made at this time, in advance of actual experience of operations under this new schedule, to reach a conclusion by estimates and opinions as to what the actual effect would be on the revenues from such service in any particular state. For, it would seem obvious, that no national, comprehensive scheme of rates could be made effective in any reasonable period of years, if investigations and tests as to probable revenue results, from the standpoint of different and various theories, must be made in each particular state of the Union, in advance of actual application of the scheme.

The Postmaster General will welcome any assistance which your commission can give in testing the actual operation of the schedule and in securing data with respect thereto in order to determine later whether any modifications of said schedule should be made, as well as to have light for the further step in the problem; to wit, standardization of local

or exchange rates. Of course, you will understand that by the standardization of local or exchange rates I do not mean to convey the impression that such rates for all places will be the same, but that the localities throughout the country will be classified according to the conditions prevailing in each, and then rates will be prescribed to fit the conditions of each class of locality.

Very truly yours,

W. H. LAMAR,
Solicitor.

BOSTON AND MAINE REORGANIZATION.

Petition of the Boston and Maine Railroad, Fitchburg Railroad Company, Boston and Lowell Railroad Corporation, Connecticut River Railroad Company, Concord and Montreal Railroad, Lowell and Andover Railroad Company, Manchester and Lawrence Railroad and the Kennebunk and Kennebunkport Railroad for certain orders and certificates necessary to perfect the reorganization of the Boston and Maine Railroad System.

In this petition, filed February 11, 1919, the Boston and Maine Railroad, incorporated in Maine, New Hampshire and Massachusetts, the Fitchburg Railroad Company, incorporated in New Hampshire, Vermont, New York and Massachusetts, the Boston and Lowell Railroad Corporation, incorporated in Massachusetts, The Concord and Montreal Railroad, incorporated in New Hampshire, the Connecticut River Railroad Company, incorporated in New Hampshire and Massachusetts, the Lowell and Andover Railroad Company, incorporated in Massachusetts, the Manchester and Lawrence Railroad, incorporated in New Hampshire, and the Kennebunk and Kennebunkport Railroad, incorporated in Maine, recite that they have entered into an agreement of consolidation, and pray that the Commission will issue orders and certificates necessary to enable them to carry it out. A copy of the Consolidation Agreement with the Plan of Reorganization attached thereto is filed with the petition, and a duplicate original has since been filed as an exhibit.

An order of notice by publication in fifteen leading newspapers of this Commonwealth was issued on February 11, 1919, returnable February 21, and has been duly served. Upon the return day, because of a vacancy caused by the resignation of one member of the Commission and because of the illness of one of the two remaining members, there was no quorum of the Commission present and the hearing was continued to February 25, 1919, at which time a public hearing was held by two members of the Commission.

At the hearing no one desired to be heard in opposition to the petition except Conrad W. Crooker, Esq., who stated that he appeared as attorney for certain unnamed minority stockholders and also as a citizen in his own behalf. Mr. Crooker raised certain objections to the jurisdiction of the Commission and to its right to hear the case. These objections were, first, that as a matter of law this petition could be heard and determined only by a full Commission of three members, and since, because of said vacancy, there were only two members available, no legal hearing could now be had before them. The second objection was that the two members of the Commission were disqualified, because at previous times they had considered and to some extent passed upon the validity of the debts (or some portion of the debts) which the petitioners now ask leave to capitalize. No prior action of the Commission was shown, however, which could be regarded as binding upon the commissioners or upon the parties in this proceeding, or which would tend to prevent the commissioners from fairly considering as a new question any issue raised by this petition. The Commission overruled both of the foregoing objections.

Two other objections were presented by Mr. Crooker. He contended that the Commission could not properly authorize the issue of bonds to fund the outstanding notes of the Boston and Maine Railroad to the amount of \$13,306,000 as prayed for in the fifth prayer of the petition. The petitioners contended that full authority to fund these notes in the manner and for the purposes set forth in the Consolidation Agreement was given to the Boston and Maine Railroad by section seven of Chapter 380 of the Special Acts of Massachusetts for 1915 (meaning here and where referred to elsewhere hereinafter Chapter 380 of the Special Acts of Massachusetts for 1915, as extended by Chapter 323 of the Special Acts of Massachusetts for 1917). This act was passed for the express purpose of permitting a reorganization of the Boston and Maine Railroad System, and contains the authority under which, so far as this Commonwealth is concerned, the petitioners have entered into their agreement of consolidation. The material parts of section seven are as follows:—

The Boston and Maine Railroad may issue stocks, common or preferred, or bonds, or both stock and bonds, subject to the provisions of section fifteen of chapter seven hundred and eighty-four of the acts of the year nineteen hundred and thirteen, and of any acts in addition thereto

or in amendment thereof, for the purpose of paying or funding its unfunded debt outstanding on the thirty-first day of March in the year nineteen hundred and fifteen . . . which debts, for the purpose of such finding, shall be deemed to be debts properly incurred for lawful purposes under the statutes of this commonwealth.

It appeared, and indeed was not disputed, that the notes in question were outstanding on March 31, 1915. The Commission was of the opinion, and so ruled, that under the provisions of this statute it was open to objectors to show that these notes were not legal debts of the Boston and Maine Railroad, but that if it appeared that they were debts which that corporation was bound to pay, the statute did not leave open the question whether they ought to be capitalized. Accordingly the Commission permitted Mr. Crooker to introduce any competent evidence which he desired to offer of any facts which tended to show that any of these notes were not enforceable obligations of the Boston and Maine Railroad. No evidence was offered, however, which in the opinion of the Commission disclosed any valid defence to any of these notes. It appeared that in every instance the issue of the notes was authorized by votes of the directors, that the notes were all sold for cash, and that the proceeds all went into the treasury of the company. It was claimed that a considerable portion of these proceeds was afterwards used to purchase stock of the Worcester, Nashua and Rochester Railroad and of the Maine Central Railroad Company. Assuming this to be so, we see nothing unlawful about such use of the proceeds, nor do we see that it affects the liability of the Boston and Maine Railroad on its notes.

The other objection raised was that the votes of the stockholders of the Boston and Maine Railroad at the meeting of January 9, 1919, approving this agreement of consolidation and plan of reorganization, and authorizing the various steps necessary to carry them out were not legal votes. In support of this objection it was claimed (1) that stockholders could not lawfully vote by proxy at such meeting, and (2) that the majority stock held by the Boston Railroad Holding Company should have been excluded from voting. Upon the evidence presented to us, we see no force in either of these contentions.

Upon the evidence presented to us we find that all the allegations of fact set forth in the petition are true. Since the functions of the Commission in dealing with the subject matter of the petition are to a large extent determined by the provisions

of Chapter 380 of the Special Acts of Massachusetts for 1915, and since the petitioners must bring themselves within its terms, the Commission also makes the following specific findings of facts: —

(1) The said Fitchburg Railroad Company, Boston and Lowell Railroad Corporation, Connecticut River Railroad Company, The Concord and Montreal Railroad, Lowell and Andover Railroad Company, Manchester and Lawrence Railroad and Kennebunk and Kennebunkport Railroad, were at the date of the passage of said Chapter 380 of the Special Acts of 1915, ever since have been and now are, railroad corporations whose roads then were and now are, leased to the Boston and Maine Railroad and operated by it as a part of its system of railroads, and were then and now are subsidiary companies of said Boston and Maine Railroad within the meaning of section one of said Special Act.

(2) That on November 26, 1918, the said seven subsidiary companies entered into the written agreement for consolidation with the Boston and Maine Railroad, a copy of which with the plan of reorganization attached thereto, was filed with said petition, and a duplicate original of which duly executed by said companies is on file with this Commission.

(3) That the terms of said Agreement of Consolidation have been agreed to by a majority of the directors of each of the eight corporations which are parties thereto, and have been approved at meetings properly notified and called for the purpose by a vote of two thirds in interest of the stockholders of the Boston and Maine Railroad, and by votes of two thirds in interest of the stockholders present and voting of each of the seven subsidiary companies, but in no case by a vote of less than a majority in interest of all the stockholders of each of said corporations, excluding, in the case of the Fitchburg Railroad Company, its common stock from such computation and from such voting.

(4) That the aggregate par value of the stocks to be issued by the Boston and Maine Railroad under said agreement to the other seven petitioning companies in payment for their properties and franchises is equal to but does not exceed the aggregate par value of the stocks of said seven companies outstanding November 26, 1918, exclusive of all stocks owned or held by any of said companies or by the Boston and Maine Railroad, which aggregate par value we find was on that date and now is \$38,817,900.

(5) That during the year ended June 30, 1914, the total amount paid in for dividends on the capital stock described above of said subsidiary companies was \$2,545,352 and upon the capital stock as above described of each of the said subsidiary companies was as follows, namely:—

Fitchburg Railroad Company,	\$943,000
Boston & Lowell Railroad Corporation,	569,400
Connecticut River Railroad Company,	323,330
The Concord & Montreal Railroad,	554,197
Lowell & Andover Railroad Company,	52,500
Manchester & Lawrence Railroad,	100,000
Kennebunk & Kennebunkport Railroad,	2,925

and that the dividends upon such stocks provided for by said Agreement will aggregate an annual payment not larger than the aggregate amount which was at the time of the passage of said Special Act paid by the Boston and Maine Railroad under the existing leases of the franchise and properties of the said seven subsidiary companies and paid as, or applicable to the payment of dividends to or for the benefit of the holders of stocks of the said seven companies, not including among such holders the Boston and Maine Railroad or any of the other seven petitioning corporations.

(6) That the Boston and Maine Railroad now owes a floating debt of the aggregate principal amount of \$13,306,000, which debt was outstanding on March 31, 1915, and on November 26, 1918, and consists of its promissory notes, more specifically described as follows:—

(a) Five per cent coupon notes dated February 3, 1913, payable February 3, 1914, and subsequently extended at 6 per cent to July 17, 1916, and in part to August 31, 1916, of the principal amount of \$439,900.

(b) Six per cent coupon notes dated February 3, 1914, payable June 2, 1914, and subsequently extended to August 31, 1916, of the principal amount of \$328,000.

(c) Six per cent notes dated June 2, 1913, payable June 2, 1914, and subsequently extended to August 31, 1916, of the principal amount of \$3,513,900.

(d) Six per cent notes dated June 2, 1914, payable March 2, 1915, and subsequently extended in part to March 2, in part to June 2, in part to July 17, and in part to August 31, 1916, of the principal amount of \$9,024,200.

(7) That on March 31, 1915, the outstanding floating debt of the Connecticut River Railroad Company consisted of its

promissory notes to the aggregate principal amount of \$2,000,000; that said notes have been renewed as they fell due, and said debt was on November 26, 1918, and now is, represented by 6 per cent notes of said Company of the principal amount of \$2,000,000, dated June 2, 1915, payable June 2, 1916, and subsequently extended to August 31, 1916; and that said debt is lawfully assumed by said Boston and Maine Railroad by the terms of said Consolidation Agreement, in accordance with the provisions of said Special Act.

(8) That on March 31, 1915, there were outstanding 6 per cent coupon notes of the Vermont Valley Railroad to the aggregate principal amount of \$2,300,000; that the said Connecticut River Railroad Company, which owns all the stock of said Vermont Valley Railroad, was guarantor on said notes, and the Boston and Maine Railroad was liable as endorser thereon; that said notes have been renewed as they fell due and said debt is now represented by 6 per cent notes of the Vermont Valley Railroad to said principal amount, dated June 1, 1915, payable June 1, 1916, and subsequently extended to August 31, 1916, said notes being likewise guaranteed by said Connecticut River Railroad Company and endorsed by the Boston and Maine Railroad; that said notes were issued to said Boston and Maine Railroad at its request to reimburse it for money previously advanced by it to said Vermont Valley Railroad, and were endorsed by said Boston and Maine Railroad as the owner thereof to enable it to negotiate the same; that the liability of said Connecticut River Railroad Company as guarantor on said notes was and is lawfully assumed by said Boston and Maine Railroad by the terms of said Agreement of Consolidation, in accordance with the provisions of said Special Act, and that said Boston and Maine Railroad was and is directly liable upon said notes as endorser thereof.

(9) That on November 26, 1918, there was, and now is, outstanding current debt of the said Fitchburg Railroad Company, of the aggregate principal amount of \$1,859,000; that said debt consists of the following notes, namely:—

(a) Six per cent notes dated February 15, 1918, payable August 15, 1918, and subsequently extended, being the third renewal of notes of like aggregate principal amount, dated March 1, 1915, payable March 1, 1916, issued to provide funds to pay a like aggregate principal amount of its 20 year 4 per cent bonds dated March 1, 1895, maturing March 1, 1915, to the aggregate principal amount of \$1,359,000.

(b) Six per cent notes dated June 30, 1917, payable June 30, 1918, and subsequently extended, being a renewal of notes of like aggregate principal amount, dated June 30, 1916, payable June 30, 1917, issued to provide funds to pay a like aggregate principal amount of its 20 year 4 per cent bonds dated July 1, 1896, and maturing July 1, 1916, of the aggregate principal amount of \$500,000;

that said debt was on November 26, 1918, and is lawfully assumed by said Boston and Maine Railroad, by the terms of said Agreement of Consolidation, and in accordance with the provisions of said Special Act.

(10) That on November 26, 1918, there was and now is outstanding current debt of the said Boston and Lowell Railroad Corporation, of the aggregate principal amount of \$414,000; that said debt consists of the following notes, namely: —

(a) Six per cent demand notes dated September 18, 1918, being in renewal of notes of like aggregate principal amount, dated September 18, 1917, payable September 18, 1918, and issued to provide funds to pay a like aggregate principal amount of its 20 year 4 per cent bonds dated October 1, 1897, maturing October 1, 1917, of the aggregate principal sum of \$200,000.

(b) Six per cent demand notes dated September 26, 1918, issued to provide funds to pay a like aggregate principal amount of its 20 year 4 per cent bonds, dated October 1, 1898, and maturing October 1, 1918, of the aggregate principal amount of \$214,000;

that said debt was and is lawfully assumed by said Boston and Maine Railroad by the terms of said Agreement of Consolidation, in accordance with the provisions of said Special Act.

(11) That the stockholders of the Boston and Maine Railroad at a meeting duly called and held for the purposes on January 9, 1919, voted to issue first preferred stock of Classes A, B, C, D and E of the aggregate par value of \$38,817,900 and first preferred stock Class F of the aggregate par value of twelve million dollars (\$12,000,000) with the respective rates of dividend, rights and preferences specified with respect thereto in Article VI and other provisions of said consolidation agreement; duly voted to issue to the Director General of Railroads 5 per cent bonds to the amount of \$15,306,000 to fund the \$13,306,000 floating debt of the Boston and Maine Railroad and the \$2,000,000 floating debts of the Connecticut River Railroad Company; duly voted to issue to the Director General of Railroads 5 per cent bonds to the amount of \$2,300,000 to take up the

aforesaid notes of the Vermont Valley Railroad, and duly voted to issue to the Director General of Railroads 6 per cent bonds to the aggregate amount of \$2,273,000, to fund the said floating debts of the Fitchburg Railroad Company and the Boston and Lowell Railroad Corporation; that all of the foregoing votes were duly and legally taken in accordance with all the requirements of the laws of this commonwealth.

ORDER.

It appearing that the Commission, after notice and a public hearing, entered upon an investigation of the matters and things involved in the petition, and on the date hereof has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof; it is

Ordered and certified.

1. That the petitioning corporations, other than the Boston and Maine Railroad, were, at the date of the passage of Chapter 380 of the Special Acts of Massachusetts for 1915, ever since have been, and now are railroad corporations whose roads then were and now are, leased to the Boston and Maine Railroad and operated by it as a part of its system of railroads, and were then and now are, subsidiary companies of the said Boston and Maine Railroad within the meaning of section one of said Special Act (meaning here and where referred to elsewhere hereinafter Chapter 380 of the Special Acts of Massachusetts for 1915, as extended by Chapter 323 of the Special Acts of Massachusetts for 1917); that the obligations of the Agreement for the Consolidation of the said subsidiary companies with the Boston and Maine Railroad (including the Plan of Reorganization of the Boston and Maine system attached thereto and made a part thereof) dated November 26, 1918, and filed with this petition, are not inconsistent with the provisions of said Special Act; that said Agreement of Consolidation be and the same hereby is approved as consistent with the public interest and substantially in accordance with the general purposes and limitations of said Special Act; and that the consolidation and merger of the property and franchises of said subsidiary companies with the said Boston and Maine Railroad in accordance with the terms and provisions of said Agreement of Consolidation and Plan of Reorganization thereto attached, be, and the same hereby are authorized and approved.

2. That the issues of first preferred stocks of the Boston and Maine Railroad, Classes A to E inclusive, of the par value, respective amounts and rates of dividend, namely:—

CLASS.	Number of Shares.	Par Value of Each.	Total Par Value.	DIVIDEND RATES (PER CENT).	
				To Jan. 1, 1924.	After Jan. 1, 1924.
A,	188,600	\$100	\$18,860,000	4.0	5.0
B,	76,488	100	7,648,800	6.4	8.0
C,	79,171	100	7,917,100	5.6	7.0
D,	43,270	100	4,327,000	8.0	10.0
E,	650	100	65,000	3.6	4.5

aggregating the par value of thirty-eight million, eight hundred seventeen thousand nine hundred dollars (\$38,817,900), with the respective rights, preferences, voting powers, restrictions and qualifications fixed in Article VI of said Agreement of Consolidation and for the purpose of carrying out the terms and provisions of said agreement for the consolidation of said subsidiary companies and the property and franchises thereof, with the said Boston and Maine Railroad may lawfully be made under the provisions of said Special Act.

3. That the issue for cash at par by the Boston and Maine Railroad upon the consolidation of said subsidiary companies with the said Boston and Maine Railroad of fifteen million, three hundred six thousand dollars (\$15,306,000) principal amount of its 5 per cent bonds payable July 1, 1920, for the purpose of raising funds to pay the unfunded debt of the Boston and Maine Railroad to the amount of thirteen million, three hundred six thousand dollars (\$13,306,000) and the unfunded debt of the Connecticut River Railroad Company to the amount of two million dollars (\$2,000,000) is in conformity with the authority conferred by said Special Act, and that said unfunded debt of said Connecticut River Railroad Company constitutes indebtedness thereof which was and is lawfully assumed by the said Boston and Maine Railroad by the terms of said Agreement of Consolidation according to the provisions of said Special Act.

4. That the issue for cash at par by the Boston and Maine Railroad upon the consolidation of said subsidiary companies with the said Boston and Maine Railroad, of two million, three

hundred thousand dollars (\$2,300,000) principal amount of its 5 per cent bonds payable July 1, 1920, for the purpose of raising funds to be applied to taking up a like amount of 6 per cent coupon notes of the said Vermont Valley Railroad, on which the Boston and Maine Railroad is directly liable as endorser and the said Connecticut River Railroad Company is liable as guarantor, dated June 1, 1915, payable June 1, 1916, and subsequently extended to August 31, 1916, and to discharging said liability of said Connecticut River Railroad Company and said Boston and Maine Railroad thereon, is in conformity with the provisions of said Special Act; and that said liability of said Connecticut River Railroad Company was and is lawfully assumed by the Boston and Maine Railroad by the terms of said Agreement of Consolidation in accordance with the provisions of said Special Act.

5. That the approval of the Commission be hereby given to the issue for cash at par by the Boston and Maine Railroad upon the consolidation of said subsidiary companies with the said Boston and Maine Railroad, of additional bonds amounting at par value to two million, two hundred seventy-three thousand dollars (\$2,273,000), payable January 1, 1929, and bearing interest at the rate of 6 per cent per annum, as an issue of bonds reasonably necessary and of the amount required for the purpose of raising funds to pay one million, three hundred fifty-nine thousand dollars (\$1,359,000) principal amount of the 6 per cent notes of the said Fitchburg Railroad Company dated February 15, 1918, payable August 15, 1918, and extended to February 15, 1919; five hundred thousand dollars (\$500,000) principal amount of the 6 per cent notes of the said Fitchburg Railroad Company dated June 30, 1917, payable June 30 1918, and extended to December 30, 1918, two hundred thousand dollars (\$200,000) principal amount of the 6 per cent demand notes of the Boston and Lowell Railroad Corporation dated September 18, 1918; and two hundred fourteen thousand dollars (\$214,000) principal amount of the 6 per cent demand notes of the Boston and Lowell Railroad Corporation dated September 26, 1918; all of said notes of said Fitchburg Railroad Company and said Boston and Lowell Railroad Corporation being in renewal of notes of said companies of like aggregate principal amount issued to provide funds to pay a like aggregate principal amount of maturing bonds of said companies; and that the Commission hereby certify that said notes of the said Fitchburg Railroad

Company and the said Boston and Lowell Railroad Corporation constitute indebtedness thereof, which was and is lawfully assumed by the said Boston and Maine Railroad, and that the issue of said bonds herein and hereby authorized and approved is for lawful purposes and is consistent with the public interest.

6. That since the issue by the Boston and Maine Railroad upon consolidation with the said subsidiary companies, of the bonds hereinbefore authorized and approved, aggregating nineteen million, eight hundred seventy-nine thousand dollars (\$19,879,000) will make the total amount of bonds of said corporation then outstanding, together with all other bonds, notes and other evidences of indebtedness payable at periods of more than twelve months from the date thereof already made or to be assumed by said corporation upon consolidation, exceed the total amount of its capital stock actually paid in, the issue of such excess to the extent and for the purposes and upon the authorization hereinbefore given is approved as consistent with the public interest within the meaning of section 15 of Chapter 784 of the Acts of Massachusetts for 1913, as amended by Chapter 303 of the General Acts of Massachusetts for 1915.

7. That the deficit of the Boston and Maine Railroad amounting, on June 30, 1915, to two million, three hundred one thousand, three hundred nineteen dollars (\$2,301,319) shall as of that date be charged and set off as against the premiums realized on common stock of said railroad sold since July 9, 1894, amounting as of June 30, 1915, to the sum of six million, five hundred one thousand, six hundred twenty dollars and fourteen cents (\$6,501,620.14); and that said premium account shall, for the purpose of determining reasonable rates and fares which said Railroad may thereafter charge and for the purpose of determining the amount of bonds and other evidences of indebtedness which such Railroad may lawfully issue, and for all other purposes to the amount of such deficit, be deemed to be cancelled and absorbed by such deficit.

8. That the approval of the Commission be hereby given to the issue by the Boston and Maine Railroad for cash at par at any time before January 1, 1924, upon vote of two-thirds in interest of the common stock of the said Boston and Maine Railroad of additional preferred stock at the price of one hundred dollars (\$100) per share, of one hundred twenty thousand (120,000) additional shares of 6 per cent cumulative first preferred stock amounting at par value to twelve million dollars (\$12,000,000)

and to be designated as Class F, First Preferred Stock, having the rights, preferences, voting powers, restrictions and qualifications fixed in said Agreement of Consolidation as an issue of stock of an amount reasonably necessary for the purpose of paying and discharging twelve million dollars (\$12,000,000) principal amount of the seventeen million, six hundred six thousand dollars (\$17,606,000) principal amount of the 5 per cent bonds of the said Boston and Maine Railroad payable July 1, 1920, hereinbefore in Items 3 and 4 of this order authorized and approved, or for the purpose of paying and discharging of a like amount of any bonds issued to refund said seventeen million, six hundred six thousand dollars (\$17,606,000) principal amount of said 5 per cent bonds payable July 1, 1920; and that the Commission hereby certify that the issue of said preferred stock is for a lawful purpose and is consistent with the public interest.

9. That the authorizations, requirements and approvals contained in this order are expressly subject to, and for the purpose of the carrying out of the aforesaid Agreement of Consolidation and Plan of Reorganization of the Boston and Maine Railroad system, and are not to be effective if said Agreement and Plan are not carried out.

10. That the said Boston and Maine Railroad shall keep true and accurate accounts showing the receipt and application by it of the proceeds of the sale or disposition of all stocks or bonds authorized to be issued hereby, and shall make report under oath to the Commission in regard thereto, and shall make like report of all action taken and things done by it pursuant to this order as soon as practicable, but not later than September 30, 1919, or such subsequent date as the Commission shall hereafter determine and order.

By the Commission,

ANDREW A. HIGHLANDS,

MARCH 25, 1919. [P. S. C. 2364.]

Secretary.

MODIFICATION OF ORDER.

Petition of the Boston and Maine Railroad, Fitchburg Railroad Company, Boston and Lowell Railroad Corporation, Connecticut River Railroad Company, Concord and Montreal Railroad, Lowell and Andover Railroad Company, Manchester and Lawrence Railroad and the Kennebunk and Kennebunkport Railroad for certain orders and certificates necessary to perfect the reorganization of the Boston and Maine Railroad System.

Memorandum.

After consideration,

It is

Ordered, That the report and order in this case dated March 25, 1919, be hereby modified by striking out at the beginning of the third paragraph in said report the words, "At the hearing no one desired to be heard in opposition to the petition except Conrad W. Crooker, Esq., who stated that he appeared as attorney for certain unnamed minority stockholders and also as a citizen in his own behalf", and substituting in place thereof the following:— At the hearing no one desired to be heard in opposition to the petition except Conrad W. Crooker, Esq., who stated that he appeared for the Boston and Maine Minority Stockholders' Protective Association, Mr. Edward F. Brown and Mr. Charles M. Green.

Attest: ANDREW A. HIGHLANDS,

MARCH 31, 1919. [P. S. C., 2364]

Secretary.

ACCOMMODATIONS, FARES, RATES, SERVICE.

RAILROAD RATES.

Notice of the Boston, Revere Beach and Lynn Railroad Company of proposed increase in rates of fare for passengers upon its railroad.

Memorandum.

Following the hearings in this case the company was allowed to increase its rate of fare from 7 cents to 8 cents, with the understanding that when an adjustment of wage conditions, now pending, is affected, it may file a new schedule of rates.

Attest: ALLAN BROOKS,
NOVEMBER 10, 1919. [P. S. C. 2489] *Assistant Secretary.*

Petition of the Municipal Council of Revere and the Selectmen of Winthrop relative to fares on the Boston, Revere Beach and Lynn railroad.

The petitioners desire a five-cent fare between stations on the Boston, Revere Beach and Lynn railroad located within the limits of each of the municipalities represented in this proceeding. At the hearing, the company agreed to issue pupils' tickets at a five-cent rate for use between stations in Revere and in Winthrop. Since the hearing, the company has requested in other proceedings (P. S. C. 2489) authority to increase its regular rate of fare from 7 cents to 10 cents and, pending an adjustment of wage schedules, when the actual requirements of the company may be definitely ascertained, has been permitted to put into effect a tariff calling for an 8-cent fare.

In view of the facts as above set forth, the Commission will place the petitions on file, with the understanding that the matters at issue may be renewed by the petitioners in subsequent proceedings.

For the Commission,

ALLAN BROOKS,
NOVEMBER 28, 1919. [P. S. C. 2336] *Assistant Secretary.*

Petition of selectmen of the towns of Milford and Upton relative to fares for passengers upon the Grafton and Upton railroad.

JOHN C. LYNCH for Towns of Milford, Upton and Grafton.

ROBERT P. CLAPP
WENDELL WILLIAMS } for Grafton and Upton Railroad Company.

This is a petition for revision of the existing passenger rates of the Grafton and Upton Railroad Company, which the petitioners claim to be excessive. The Grafton and Upton railroad runs from North Grafton through the towns of Grafton, Upton and Hopedale to Milford, and has a total mileage of 18.10 miles, including a loop 2.73 miles long in the town of Upton which was acquired through purchase of the railway of the Upton Street Railway Company in accordance with the provisions of chapter 452 of the Acts of 1902. This loop line still retains the status of a street railway, as the Grafton and Upton company did not acquire the right to operate a railroad upon that location.

Under the authority of the same statute the Grafton and Upton company, on October 1, 1902, entered into a contract, which still remains in effect, with the Milford and Uxbridge Street Railway Company, under which the latter company supplies the cars, car employees, and the power, and maintains the overhead trolley system, for the operation of the passenger service and the transportation of baggage, express and mail matter of the Grafton and Upton company between North Grafton and Hopedale. The portion of the line between Hopedale and Milford is now used for freight traffic only, the passenger service between these points being performed by the Milford and Uxbridge company on its own line and under its own tariff. By virtue of this arrangement the Grafton and Upton company furnishes passenger service through the medium of the Milford and Uxbridge Street Railway Company between North Grafton and Hopedale by way of the Upton loop, a total distance of 13.60 miles, and directly operates the freight service between North Grafton and Milford by way of the main line, a distance of 15.37 miles. By the terms of the contract between the two companies the Grafton and Upton company receives a stated sum of \$9,500 a year plus one-fourth of the gross passenger receipts in excess of \$25,000, and the remainder of the passenger receipts go to the Milford and Uxbridge company.

On January 1, 1918, the federal government took over the possession, use, control and operation of the Grafton and Upton.

company. At that time, the road was divided into five zones, with a 5-cent fare in each. On June 10, 1918, the United States Railroad Administration established a uniform one-way rate for passenger transportation of 3 cents a mile, with a minimum charge of 10 cents, upon all railroads under federal control. On June 24, 1918, the company was discharged from federal control, but the rates meantime established have remained in effect except as modified by a tariff supplement effective August 1, 1918, which provided for a reduction of the minimum fare for a ride of 2 miles or less from 10 cents to 6 cents.

The petitioners claimed that the passenger service of the Grafton and Upton company is essentially a street railway service rather than a railroad service, that the rates should be established according to railway rather than railroad standards, and that upon this basis the existing rates are excessive. The company contended that its status as a railroad company in the conduct of its passenger business is shown by the fact that it provides free transportation for baggage and maintains stations for the checking of baggage and the sale of tickets at several points on its line, and introduced evidence tending to show that the existing rates are justified by the legitimate revenue requirements of the company. The company, however, suggested that, if the present system of mileage zones is inconvenient to the public, it might be willing to provide for a division of the road into 6 fare zones, with a 7-cent unit of fare. This plan would make no change in the through rate for the entire line, but would result in certain readjustments of fares between intermediate points. The petitioners stated that they were willing to accept a 7-cent unit of fare, but claimed that the road should be divided into 5 zones instead of 6, making the through rate 35 cents instead of 42 cents. They also desired to have the present workmen's tickets retained, but agreed that the rate might properly be increased to correspond with the increase in the cash fare.

As the result of several conferences between the Commission and the company, the latter has agreed to try out for an experimental period a new fare plan embodied in M. P. S. C. tariffs No. 14 and No. 15, effective February 1, 1919, under which the road is to be divided into 7 zones, with a 5-cent fare in each. Under this plan the through fare will be the same as suggested by the petitioners, but the 5-cent unit of fare for zones of approximately 2 miles each should prove more convenient both to the company and to the public. This fare plan

is consistent with the present practice of some of the larger street railway companies and appears to be reasonable by comparison with the rates generally charged by street railway companies on interurban lines. As the portion of the line between Milford and Hopedale is now operated by the Milford and Uxbridge Company on its own line and under its own tariff, the passenger rates from Milford to Hopedale and other points on the Grafton and Upton railroad are not included in the local passenger tariffs to be filed by the Grafton and Upton Company. With this exception, all the present workingmen's tickets are to be retained at a rate 40 per cent in excess of that prevailing prior to June 10, 1918, which corresponds with the proposed increase in the cash rates as compared with those in effect prior to the same date. After reasonable opportunity has been afforded for a trial of this new fare plan, it will be open to the company or to the petitioners, without prejudice, to apply for such revision of fares as may, in the light of experience, seem to be just and reasonable. As this arrangement seems for the present to be a satisfactory adjustment of the complaint of the petitioners, —

It is

Ordered, That the petition be dismissed.

By the Commission,

ANDREW A. HIGHLANDS,

JANUARY 31, 1919.

[P. S. C. 2262]

Secretary.

RAILROAD SERVICE.

Petition of W. D. Thompson et al. relative to service on the Boston and Albany railroad from Worcester to points west on Saturdays.

The petitioners desire the operation of a Saturday midday train service to stations on the Boston and Albany railroad between Worcester and Palmer. For several years local service to Warren, West Brookfield, Brookfield, East Brookfield and other stations between Worcester and Palmer was furnished by train No. 47, which left Worcester daily about noon. Originally, this train was well patronized, but owing to the decline in the population of the towns served, and the increased use of automobiles, the patronage on this train had fallen off to a daily average of one or two passengers per station. In connection with the general reduction of passenger service in order to con-

serve engines, men and material during the period of the European war, this train was discontinued on June 24, 1917.

In the spring of 1918 complaint was made of the discontinuance of that service, and after hearing, an arrangement satisfactory to the parties was effected, by which a train then leaving Worcester at 1.10 P.M. on Saturdays was set five minutes ahead and made these local stops. At that time this train was used largely for the accommodation of soldiers at Camp Devens who desired to travel on Saturdays to Springfield and points beyond. When the troops were largely withdrawn from Camp Devens that train was discontinued on May 3, 1919, and stops were made at East Brookfield and Warren on train No. 31, leaving Worcester at 2.10 P.M. The petitioners claimed that this arrangement did not afford a satisfactory substitute for their former service, as they arrived home too late to utilize the Saturday half holiday at home. They therefore requested the Commission to order the restoration, on Saturdays only, of the service formerly given by train No. 47.

At the conclusion of the hearing, the Commission took the matter up with officials of the company in the hope that they might voluntarily install the service requested by the petitioners, but they declined to do so on the ground that the patronage of the train did not warrant its operation. When this Saturday service was furnished in 1918 on the train which formerly left Worcester at 1.10 P.M., the average number of passengers for East Brookfield, Brookfield and West Brookfield for 28 Saturdays was 3.1, 4.6 and 5.4 at these stations respectively, or a total of 13 passengers for all three stations. As this railroad is now being operated by the federal administration at a loss of about a million dollars a year, it did not seem to the Commission that it could, in the valid exercise of its authority, require the company to maintain reasonable service and accommodations, order the operation of a special train for the accommodation of 13 passengers only, or that any such finding, if made by this Commission, would be regarded as binding upon the United States Railroad Administration.

It is therefore

Ordered, That the petition be dismissed.

For the Commission,

ANDREW A. HIGHLANDS,

NOVEMBER 5, 1919.

[P. S. C. 2105]

Secretary.

Petition of patrons of the Boston and Maine Railroad relative to stopping train No. 214 at the factory of the United Shoe Machinery in the city of Beverly.

It appears in this case that the Boston and Maine Railroad formerly stopped a train at the United Shoe Machinery Company's plant in Beverly, starting from Newburyport and arriving at Beverly at 6.45 A.M., to accommodate the patrons of the road living east of Beverly and working in the plant of this company. When the opening hour of the plant was changed from 7 A.M. to 8 A.M., there was no occasion to stop the train at this point, and the stop was discontinued. The petitioners now ask that the railroad company be required to stop a train from Portsmouth, scheduled to reach Beverly at 7.43 A.M., at the shoe machinery plant for the same purpose.

The station at Beverly is about eight-tenths of a mile west of the shoe machinery plant, and the omission of this stop necessitates its employees walking from the station to the plant. The railroad company now operates a train leaving Lynn at 7.06 A.M., which arrives at Beverly at 7.23 A.M. This train proceeds through the yard of the railroad company to a track of the United Shoe Machinery Company, arriving there at 7.25 A.M., and accommodates employees of the plant coming from points west of Beverly. There is another train arriving at Beverly from Rockport at 7.48 A.M., or 25 minutes after the train from Lynn leaves Beverly, and patrons of the road living on this line and working in the shoe machinery plant have also asked the company to afford them facilities for getting from the station to the plant. The railroad company contends that to require the 7.43 A.M. train to make this stop would seriously interfere with the schedule of the train which it states it is now difficult to maintain, and which carries some 700 or 800 people into Boston, and that it would establish a precedent which would seriously impair the service of trains on its road. The company is, however, willing to have the train leaving Lynn at 7.06 A.M. set back so as to make a connection at Beverly with the train from Rockport and the train from Newburyport, which would afford the patrons of these two lines the opportunity they desire, but this would make the arriving time of this train at the shoe machinery plant 7.56 A.M., which the management of the plant feels would be too late to allow employees to start work at 8 o'clock, and would necessitate starting the factory a few minutes later. It was

stated by the petitioners that some 200 people would use this Newburyport morning train if the stop petitioned for was made.

From the disposition shown by the railroad management at the hearing, it appears that the object of the petitioners can be obtained through the co-operation of the managers of the shoe machinery plant with the officials of the railroad company.

It does not seem to the Commission that it should establish the precedent of requiring railroads to stop passenger trains at points between stations, simply because persons and corporations have established plants at such points. To establish such a precedent would seriously impair the efficiency of the railroads, and would compel railroad companies to enter into a service which they are not designed to perform. Moreover, it would tend to create discriminations in service. Where the railroad corporation finds that it can conveniently make such an arrangement without serious impairment of its service to patrons at established stations, it will not meet with the disapproval of this Commission, unless found to interfere with the general efficiency of the road or to effect an unreasonable discrimination in service. Accordingly, —

It is

Ordered, That the petition be dismissed.

Attest: ALLAN BROOKS,

NOVEMBER 29, 1919. [P. S. C. 2476]

Assistant Secretary.

Petition of patrons of the Boston and Maine Railroad that the dispatching of Train No. 1121 on the Georgetown branch, due to leave Boston at 4.49 P.M., be changed to a later hour.

Train No. 1121 which the petitioners desire to leave Boston at a later hour, now leaves Boston at 4.49 P.M., runs express to Wakefield Junction, thence accommodation by way of West Peabody, Danvers Junction, Georgetown and Newburyport to Amesbury, arriving there at 6.41 P.M. It makes connection at Danvers Junction with train No. 1066 for Salem, and No. 1061 from Boston by way of Lynn and Salem, and also connects with Train No. 688 at Georgetown, thereby providing facilities for passengers in the territories served by these connecting trains to points on the line between Danvers Junction and Newburyport, Salem and Haverhill. The petitioners complain that the leaving time of train No. 1121 from Boston is too early to ac-

commodate those who finish their business at 5 P.M. and ask that the leaving time of the train be changed to about 5.15 P.M.

This train has been running on nearly its present schedule for many years, its leaving time from Boston having been moved ahead a few minutes to allow a better spacing between trains following it. There is also a train leaving Boston at 5.30 P.M. which operates over this same route as far as Danvers. The traffic situation on the Boston and Maine railroad between Boston and Wakefield Junction between 5 and 5.30 P.M. is such that if any additional train is operated between these hours, it should do local work between these places in order to relieve other trains. Moreover, any change in the leaving time of this train would necessitate a rearrangement of the schedules of the three connecting trains referred to above which might inconvenience patrons of these trains who are apparently satisfied with the present schedule.

Since the hearing upon this petition the Commission has received a protest from parties representing many patrons of the train stating that if the running time of the same is to be increased by adding stops between Boston and Wakefield Junction, they would prefer to have its schedule unchanged.

In view of all the facts and conditions in the case, the Commission is not disposed to order the leaving time of this train changed.

It is therefore

Ordered, That the petition be dismissed.

By the Commission,

ANDREW A. HIGHLANDS,

APRIL 22, 1919. [P. S. C. 2325]

Secretary.

Application for reopening of case of J. B. Cover and Company and others relative to conditions on branch track, known as the Kittredge track, on the Boston and Maine railroad in the city of Lowell.

Upon a complaint entered February 9, 1915, by J. B. Cover and Company and others concerning conditions on a branch track, known as the Kittredge track, on the Boston and Maine railroad in the city of Lowell, the Commission after a hearing found that this was a public track, that the facilities provided

on the same were inadequate to meet the needs of patrons entitled to receive service upon it, etc., but declined to issue an order requiring the company to make the alterations desired at that time, in view of the wartime conditions then prevailing, and the financial condition of the company, and placed the petition on file, with the understanding that upon application of the petitioners, the matter would be taken up for further action when conditions might better justify an order of the nature desired. (See P. S. C. 2060, decided February 9, 1918.)

On April 15, 1919, the petitioners asked to have the case taken from the files and reopened. This was done, and at a hearing held June 5, 1919, it developed that the Boston and Maine railroad was making changes in tracks of a similar character leading to certain mills in Lowell. The railroad company had refused at the previous hearing to make changes of this nature for the petitioners in the tracks in question and such changes apparently were satisfactory to the petitioners. Counsel for the railroad company intimated that they might be willing to make similar arrangements in regard to the Kittredge track, and suggested a conference with the petitioners, with a view to arriving at some satisfactory arrangement, but pointed out that the railroad company was holding up the work on the other tracks at present on account of its inability to get the necessary money from the Federal Railroad Administration, which is now operating the road, and supplying the necessary funds for such work, as well as meeting the deficiency in its operation.

The suggestion of the counsel for the company met with the approval of counsel for the petitioners and the hearing was closed with the understanding that such a conference would be had. The Commission is advised that as yet no satisfactory arrangement has been arrived at, and that all work of a similar nature is now held up for lack of funds.

In view of the above, the Commission will place the case on file with the understanding that in the event that no mutually satisfactory arrangement is reached, the case may be assigned for further hearing at the request of the petitioners.

Attest:

ALLAN BROOKS,

NOVEMBER 29, 1919.

[P. S. C. 2060]

Assistant Secretary.

Petition of patrons of the Boston and Maine Railroad for the restoration of certain passenger train service from Georgetown to Danvers and Salem.

The Boston and Maine railroad formerly operated a train which was made up at Danvers Junction, left there at 6.36 A.M. for Georgetown and left Georgetown on the return trip at 7.10 A.M., arrived at Danvers at 7.36 A.M., was operated around the Y to the Danvers eastern station, and thence by way of Salem to Boston. In 1916 the service on this train from Danvers Junction to Georgetown and return was discontinued, the train left Danvers at 7.38 A.M., and was operated through to Salem and Boston approximately on the former schedule.

As the result of this change the petitioners claim that it is no longer possible for them to obtain a satisfactory morning service between Georgetown and Salem. Under the present schedule they are obliged either to take the train leaving Georgetown at 6.26 A.M. and wait 16 minutes at Danvers for connection with the train leaving there at 7.09 A.M. for Salem and Boston, or else to take the train leaving Georgetown at 7.30 A.M. and wait 52 minutes at Danvers to make connection with the 8.51 A.M. train for Salem and Boston. While the present schedule furnishes reasonably satisfactory service for through travel from Georgetown to Boston by way of Wakefield Junction, the petitioners claim that reasonable accommodations are not afforded for travel from Georgetown to the county seat at Salem, and that the old service, which included also a return trip from Salem to Georgetown in the evening, should be restored. Inquiry was made as to whether it was practicable, in lieu of installing this additional service, to provide for better connections between existing trains at Danvers. It was apparent, however, that any such change would disturb connections at other points, and would discommode a large volume of through travel to Boston. It seems, therefore, that the service desired by the petitioners could not be afforded in any practicable way except through the operation of the additional train service between Danvers and Georgetown, which was furnished by the company prior to 1916. Owing to the higher wage scale and other changes in conditions of employment, the operation of that service at this time would result in a much larger expense to the company than was involved under former conditions. The company contended that the former patronage of this train would not justify its restora-

tion in the present financial condition of the company, and that it was open to the petitioners to avail themselves of the street railway service between Danvers and Salem.

The discontinuance of this service has undoubtedly resulted in hardship to the petitioners, and under normal conditions the Commission might be justified in requiring the company to restore the service formerly given. The Commission is, however, in doubt as to how far it can properly require a company which is being operated at a large financial loss to install further non-remunerative service. As the railroad situation throughout the entire country is involved in great uncertainty at the present time, it seems to us that this matter should remain in abeyance until Congress has determined under what conditions the railroad companies shall be restored to private control. Without prejudice to the right of the petitioners to renew their petition at any later time when conditions warrant,

It is

Ordered, That the petition be dismissed.

By the Commission,

ANDREW A. HIGHLANDS,

NOVEMBER 5, 1919.

[P. S. C. 2432]

Secretary.

Petition of residents of Gloucester and Rockport for the re-establishment of morning and afternoon express train service on the Boston and Maine railroad between the North Shore and Boston.

In this case, the petitioners requested the elimination of the stops at Manchester, West Manchester, Beverly Farms, Prides and Montserrat, made by Boston and Maine train leaving Rockport at 7.47 A.M., arriving at Boston at 9 A.M., and on the train leaving Boston at 4.58 P.M., arriving at Rockport at 6.10 P.M.

Prior to the war, these trains were operated between Boston and Rockport with stops at Gloucester and Magnolia only. At that time, however, a private club train, known as the "Flying Fisherman," afforded express service to points between Beverly and Magnolia. As that train did not prove remunerative, and as the operation of a private railroad service of that character was regarded as of doubtful propriety, that train was discontinued, and stops at Manchester, West Manchester, Beverly Farms, Prides and Montserrat were added to the schedule of the trains referred to in this petition. Through the addition of these stops and other causes, the running time between Rockport and

Boston was increased by 12 minutes inbound and 9 minutes outbound.

The petitioners desired the restoration of the former express service through the elimination of these additional stops, but objection was offered by the residents of the communities affected. As these trains are operated only during the summer months, and largely for the accommodation of summer residents on the North Shore between Beverly and Rockport, it seems to the Commission that no adequate reason was shown for confining this service to Rockport, Gloucester and Magnolia only, and for depriving other residents of the North Shore summer colony of similar privileges. In view of the fact that these trains are operated express between Beverly and Boston, the service to North Shore points under the company's schedule appears to be fully up to the standard of service furnished by this and other railroads to summer resorts in the commonwealth. The Commission, for the reasons stated, did not feel that the omission of these stops was justified by the evidence in the case.

It is therefore

Ordered, That the petition be dismissed.

For the Commission,

ANDREW A. HIGHLANDS,

NOVEMBER 5, 1919. [P. S. C. 2404]

Secretary.

Petition of residents of Medford relative to restoration of passenger train service upon the Medford branch of the Boston and Maine railroad.

The petitioners desire the restoration of the service that was operated over the Medford branch of the Boston and Maine railroad prior to July, 1917, at which time extensive reductions in passenger train service were made upon the recommendation of the Railroads' War Board. The schedule proposed by the company at that time was, after conference with the Commission, augmented to the extent of retaining four of the eight week-day trains and the two Saturday trains operated over this branch in either direction.

At the hearing, the matter resolved itself into the question of restoring in part the service previously enjoyed by patrons of this branch by adding to the present schedule the morning train formerly leaving Medford at 7.49 A.M., and the evening train formerly leaving Boston at 6.30 P.M. The average number of

passengers carried by these two trains, when the schedule called for twice the service now operated, was 136 and 67 respectively. The evidence indicated, however, that if these trains were now restored the patronage would be considerably larger, for the service furnished at present seems clearly to be less than the traffic warrants.

Under these circumstances, it seems to the Commission that existing conditions justify a partial restoration of the service upon this branch and that the operation of two additional trains at the hours above indicated will meet, for the present at least, the requirements of the communities affected. An order will, therefore, be entered accordingly, upon the understanding that, if conditions change or a continuance of the service, after a trial period, proves to be unwarranted through lack of patronage, the company may file a petition for relief. If, on the other hand, it develops that the augmented service is insufficient to meet the traffic needs, the question of adding still other trains will be considered by the Commission.

The management was requested at this hearing to indicate to the Commission its policy with respect to the restoration of needed passenger train service in general upon the Boston and Maine railroad, since the reasons given for the extensive reductions that were made, aggregating since the summer of 1917 about 3,000,000 miles annually over the entire system, have, in large part at least, ceased to exist. The response to this request was not wholly satisfactory, and the situation is being further investigated by the Inspection Department of the Commission. Complaints and evidence in regard to the overcrowding of trains are accumulating, and it is clear that, if sufficient cars cannot be placed upon the trains now scheduled to accommodate the traffic, other trains must be added. The situation upon the New York, New Haven and Hartford lines is similar.

It is

Ordered, That the Boston and Maine railroad be hereby required to restore in part the passenger train service formerly operated over the Medford branch of its railroad by adding to the present week-day schedule a train due to leave Medford at about 7.49 A.M., and a train due to leave Boston at about 6.30 P.M.

By the Commission,

ANDREW A. HIGHLANDS,

JANUARY 27, 1919.

[P. S. C. 2338]

Secretary.

Complaint of C. S. Warner and A. S. Gordon of Northfield concerning the stopping of train No. 4 on the Boston and Maine railroad at Millers Falls.

Memorandum.

The commission held a conference to-day on this matter, at which Mr. Warner, representing the petitioners, and Mr. Grant, acting general passenger agent of the Boston and Maine, were present, as the result of which the company will stop train No. 4 at Millers Falls beginning at an early date and will keep a count of the number of people using the train at this station. If the patronage of the same does not warrant the continuance of the stop, or if the train should be changed later to a train with western connections, either party will be at liberty to take the matter up with the Commission.

By the Commission,

ANDREW A. HIGHLANDS,

JUNE 19, 1919. [P. S. C. Comp. 1642]

Secretary.

Petition of citizens of the town of Northfield relative to passenger train service on the Central Vermont railway.

Memorandum.

At the hearing on this petition, held on May 1, 1919, an adjustment of the matter in controversy was effected in accordance with a memorandum of the parties in interest filed with the papers in the case. Further action by the Commission appears to be unnecessary and the petition is placed on file without prejudice.

Attest: ANDREW A. HIGHLANDS,

JUNE 18, 1919. [P. S. C. 2401]

Secretary.

Petition of patrons of the New York, New Haven and Hartford Railroad Company relative to inadequate passenger train service between Boston and Norwood.

At a hearing upon this petition, complaint was confined to the lack of service during the middle of the day between Readville and Boston on the Midland division of the New York, New

Haven and Hartford railroad. It appears that there are no inbound passenger trains between these stations on this division from 8.19 A.M. to 5.46 P.M. except on Saturdays, and with the exception of a train leaving Boston at 12.10 P.M. there are no outbound trains from 6.49 A.M. to 4.38 P.M.

The petitioners at the hearing stated that they would like at least two extra trains each way, one arriving in Boston about 10.15 A.M., another about 1.30 P.M., one leaving Boston about 2.45 P.M. and another about 10.30 P.M. Officials of the company stated that to give this service would require an additional engine crew, at an expense which they did not feel the traffic warranted, in view of the fact that the territory was now well served by the Boston Elevated Railway Company, but if they found that some additional service could be provided during the middle of the day, without too great an expense, they would be disposed to give it a trial.

Since the hearing the Commission has taken the matter up with the officials of the company and they have agreed, effective with the summer time table beginning Monday, June 9, 1919, to operate additional service on approximately the following schedule: —

<i>Leave Boston.</i>	<i>Arrive Readville.</i>
8.29 A.M.	9.00 A.M.
10.59 A.M.	11.30 A.M.
2.44 P.M. (except Saturdays).	3.16 P.M.
<i>Leave Readville.</i>	<i>Arrive Boston.</i>
9.45 A.M.	10.15 A.M.
1.01 P.M. (except Saturdays).	1.32 P.M.

It will be noted that the trains which are to leave Readville at 1.01 P.M. and Boston at 2.44 P.M. will not run on Saturdays as service on Saturdays only is now furnished by trains No. 7056 and No. 7041, the former train leaving Readville at 1.01 P.M. and the latter leaving Boston at 1.50 P.M.

The above schedule makes provision for the additional trains requested by the petitioners, with the exception of a late evening train leaving Boston at 10.30 P.M. It does not appear to us, however, that the company can reasonably be required to operate an additional train at that hour, as the train now leaving Boston at 11.10 P.M. would seem to provide reasonable service for theatre patrons and other late evening traffic.

These additional trains are put on by the company without an order from the Commission, upon the understanding that if, after a fair trial, the patronage of these trains should prove insufficient to justify their continued operation, the company may present the facts to the Commission and ask for their discontinuance.

It is therefore

Ordered, That the petition be placed upon file.

For the Commission,

ANDREW A. HIGHLANDS,

MAY 31, 1919. [P. S. C. 2379]

Secretary.

Petition of patrons of the New York, New Haven and Hartford Railroad relative to inadequate passenger train service between Boston and South Shore points.

In this case the petitioners desired to have the time of train No. 5173 on the New York, New Haven and Hartford railroad, which leaves Boston at 4.09 P.M. for Plymouth, changed, so as to leave about ten minutes later, and train No. 5197, which leaves Boston at 5.07 for Greenbush, changed, so as to leave eight minutes later. They also desired to have train No. 5066, which leaves Greenbush at 7.40 in the morning during the summer months and arrives in Boston at 8.44, changed so as to arrive a few minutes earlier. Immediately after the hearing the Commission gave the matter further consideration, and at a conference with the officials of the company it was arranged that train No. 5197, which left Boston at 5.07, should be changed so as to leave at 5.16, and this change was installed by the company. It did not appear to the Commission that any of the other changes desired could be made, without too great interruption of the schedules of other trains, or without unduly discommoding the long-distance riders. It is therefore

Ordered, That so much of the petition as relates to a change in the schedules of trains Nos. 5173 and 5066 be dismissed.

Attest: ANDREW A. HIGHLANDS,

NOVEMBER 5, 1919. [P. S. C. 2370]

Secretary.

STREET RAILWAY FARES.

Petition of the selectmen of the town of Andover relative to revision of fares on the Bay State street railway.

Memorandum.

A hearing was held upon this petition, and, pending determination of the same, the management and control of the Bay State street railway was taken over, on June 1, 1919, by a board of trustees appointed under chapter 188 of the Special Acts of 1918. A copy of the petition, together with a transcript of the testimony in the case, has been forwarded to the board of trustees now operating the property, for its consideration and determination.

Attest: ANDREW A. HIGHLANDS,
JUNE 25, 1919. [P. S. C. 2372] Secretary.

Notice of the Berkshire Street Railway Company of proposed increase in fares upon its railway.

Memorandum.

It was agreed at the hearing in this matter that the schedule of fares proposed by the company should become effective without delay, in order that service on the various lines, which had been discontinued during the past six or seven weeks, might be restored, and that such minor adjustments relating thereto as were called to the attention of the Commission should be reserved for further consideration. Authority will be given, therefore, to allow the tariff to become effective on October 1, 1919.

Attest: ANDREW A. HIGHLANDS,
SEPTEMBER 29, 1919. [P. S. C. 2480] Secretary.

Petition of Selectmen of the Town of Williamstown and others relative to fares on the Berkshire street railway.

Memorandum.

Since the hearing held on this petition the Berkshire Street Railway Company, after cessation of the operation of its lines for a period of nearly two months, filed a new tariff which went into effect October 1, 1919. The readjustment of fare zones under this new schedule materially changed the matters com-

plained of, so that they are no longer applicable under present conditions. As further action appears to be unnecessary, the petition is placed on file.

Attest: ANDREW A. HIGHLANDS,
NOVEMBER 18, 1919. [P. S. C. 2439] Secretary.

Notice of the Blue Hill Street Railway Company (George Spaulding, Receiver) of proposed changes in rate of fare for passengers upon its railway.

Memorandum.

On July 15, 1919, the receiver of the Blue Hill Street Railway Company filed a new schedule of rates, effective August 15, 1919, providing for three overlapping fare sections with a ten-cent fare in each section. Following public notice of the proposed rates, protests were received from residents of the towns of Milton and Stoughton with respect to the establishment of a ten-cent fare, and urging the adoption of a five-cent unit. At a conference with representatives of the company it was agreed that a supplemental schedule of rates, to become effective upon short notice, should be filed, dividing the system into six zones, with a five-cent fare in each zone, the Inspection Department of the Commission being instructed to co-operate with the company in the proper division of the zones.

For the Commission,

ALLAN BROOKS,
AUGUST 12, 1919. [P. S. C. 2463] Assistant Secretary.

Notice of the Fitchburg and Leominster Street Railway Company of proposed increase in rates of fare for passengers upon its railway.

The Fitchburg and Leominster Street Railway Company filed with the Commission, effective October 10, 1919, a schedule of proposed increases in rates of fare for passengers upon its railway. Upon complaint, a hearing was held and pending adjudication the operation of the proposed schedule was suspended, unless otherwise ordered, until December 1, 1919.

On November 30, 1918, the Commission, after investigation and hearing, allowed the Fitchburg and Leominster Street Railway Company to raise its cash fare from 5 to 7 cents, and to

sell tickets in strips of eight for 50 cents, or at the rate of $6\frac{1}{4}$ cents per ride, such tickets to be good in any fare zone and at all hours of the day in lieu of the regular cash fare. Provision was also made for the sale of tickets in strips of ten for \$1, good during certain morning and evening hours between Fitchburg and Lunenburg and between Shirley and Ayer.

Under the tariff now filed, it is proposed to raise the cash fare from 7 to 10 cents and the ticket rate from $6\frac{1}{4}$ to $8\frac{1}{3}$ cents, through the sale of tickets in strips of six for 50 cents. It is also proposed to increase the 10-trip tickets from \$1 to \$1.25, and to make the tickets between Shirley and Ayer good during all hours of the day. Pupil's tickets are to be sold at the rate of six for 30 cents, or one-half the regular cash fare. At present there are five fare zones between Fitchburg and Ayer, but the company proposes to reduce these to four, thus making the fare between these points 40 cents cash, or $33\frac{1}{3}$ cents by tickets, instead of 35 cents cash and $31\frac{1}{4}$ cents by tickets, as at present.

At the hearing, officials of the company stated that the need of additional revenue was due to a decrease in the company's passenger earnings through the loss of its Camp Devens traffic, and to an increase in operating expenses through the necessity of meeting the demands of its employees for an increase in wages commensurate with the increases awarded by the War Labor Board for other street railway companies. This increase, which was retroactive and became effective as of June 1, 1919, represented an increase of 37 per cent in the pay of the platform men and an increase of about \$65,000 in the annual pay roll.

The company filed an exhibit showing the number of passengers carried and the revenue received, by months, from December, 1918, when the present fare schedule went into effect, to September, 1919, inclusive, as compared with the passengers carried and the revenue received in the corresponding months of the previous year. During the first three months of this period, the decrease in riding was small, but succeeding months showed the effects of the gradual loss of the Camp Devens traffic during the period of demobilization. Since May the number of passengers carried has shown an average decrease of more than 200,000 a month, or nearly 25 per cent.

During the year ended June 30, 1919, the net earnings of the company amounted to \$29,320, or a little more than a sum sufficient to pay a 6 per cent return on the capital stock of \$450,000. In order to meet the increase of wages, if other expenses remain

the same, the company therefore needs to increase its annual revenue by \$62,680. The company estimates that under the proposed rate schedule, the decrease in riding occasioned by the higher fares and loss of Camp Devens traffic would amount to 20 per cent as compared with the year ended June 30, 1919. Under that schedule also the company estimates that only 30 per cent of the passengers would pay the cash fare of 10 cents, and that the remainder would use the $8\frac{1}{3}$ -cent or 10-cent tickets. Upon that basis the increase in passenger revenue would amount to about \$68,000, but this would be offset in part by an estimated loss of \$4,000 in freight and other revenue due to the loss of Camp Devens business. Judged by the actual traffic conditions disclosed by the company during recent months, and the experience of other companies with respect to fare increases, and the comparative use of cash and ticket fares, the company's estimate of future revenue appears to be a reasonable forecast of the financial results of operation under the new fare schedule.

As pointed out by the Commission in the former rate case, decided November 30, 1918, the entire capitalization of the company represents honest and prudent investment, and the management has, in general, used sound business methods in the operation and maintenance of its properties. (6 P. S. C. Rep. p. 117.) As there appears to be little likelihood in the near future of any reduction in the cost of labor and materials, or of any decrease in the operating expenses through further economies of operation, the revenue requirements of the company can apparently be met only through an increase in the present rates.

While all estimates of future revenue must, at best, be approximate only, it does not appear from the evidence now available that the fares proposed are likely to yield a revenue in excess of the legitimate needs of the company. As the fare scheme suggested by the company seems also to be as equitable as any alternative plan which might be devised for raising the necessary revenue, there would appear to be no valid reason for disallowing the schedule as filed. At the request of certain petitioners, the company has, however, consented to extend the fare limit of the 10-ride tickets between Ayer and Shirley from the suspender factory to Slab City crossing. Subject to that modification, the Commission will allow the schedule as filed to become effective upon short notice, but upon the understanding that the whole question may, upon the complaint of any interested party, be opened for review at the end of a six-months trial period.

ORDER.

It appearing that on September 10, 1919, the Fitchburg and Leominster Street Railway Company filed with the Commission, effective October 10, 1919, a local passenger tariff numbered M. P. S. C. No. 2, cancelling tariff M. P. S. C. No. 1, and that the rates and charges prescribed in said tariff have been suspended by successive orders of the Commission until December 1, 1919;

And it further appearing that a full investigation of the matters and things involved in said tariff has been had, and that the Commission on the date hereof has made and filed a report containing its findings of fact and conclusions thereon, which said report is herein referred to and made a part hereof, —

It is

Ordered, That the Fitchburg and Leominster Street Railway Company be hereby notified that said company, upon filing with the Commission a supplement to said tariff, providing for the modifications therein which are specified in the said report, may, under this authority, and for the reasons stated in said report, make said tariff as amended by said supplement, effective upon not less than two days' notice to the Commission and the general public, by filing and posting in a conspicuous manner in its waiting rooms and cars a printed notice which shall plainly state the changes proposed to be made in the fares now in force and the time when such changes shall take effect.

It is

Further ordered, That the Fitchburg and Leominster Street Railway Company be and is hereby notified and required to cancel the rates and charges stated in said tariff, filed September 10, 1919, so far as they are inconsistent with the basis of fare herein prescribed.

And it is

Further ordered, That a copy of this order be filed with said tariff at the office of the Commission and that a copy hereof be forthwith served upon the Fitchburg and Leominster Street Railway Company.

By the Commission,

ANDREW A. HIGHLANDS,

NOVEMBER 14, 1919.

[P. S. C. 2483]

Secretary.

Petition of patrons of the Interstate Consolidated Street Railway Company relative to change in limit of fare zone on its line between North Attleborough and South Attleborough.

Memorandum.

The Commission has been advised by the chairman of the Selectmen of North Attleborough that an adjustment of the matters complained of in this petition has been effected with the company. The petition is, therefore, placed on file without prejudice.

Attest: ANDREW A. HIGHLANDS,
APRIL 30, 1919. [P. S. C. 2345] Secretary.

Notice of Milford, Attleborough and Woonsocket Street Railway Company of proposed changes in rates of fare for passengers upon its railway.

Memorandum.

Upon notice from the Milford, Attleborough and Woonsocket Street Railway Company that it desired to file a new schedule of fares and fare zones on its railway, the Commission held a conference at its office on May 23, 1919.

The officials of the company presented figures showing that the company for the first four months of this year failed to meet operating expenses by \$8,012. In order to obtain the needed additional revenue they suggested that the company's lines, which are now divided into seven fare zones, be redivided into 11 zones averaging about 2 miles in length, and that the unit of fare be reduced from 7 cents to 5 cents.

It appears that the selectmen of the towns of Milford, Bellingham, Plainville and Franklin, which are the only towns except Wrentham which the street railway directly serves, formed a joint committee to act relative to the adjustment of fares and fare zones on this street railway and appointed Mr. M. J. Kennedy and Mr. John F. Cody as chairman and secretary, respectively, with authority to act for them at the conference held by the Commission. Mr. Kennedy stated that the town officials of Wrentham had been asked to attend the meetings of the joint committee, but declined to take any part therein or express any opinion in regard to the readjustment of fares proposed. At the conference the town of Wrentham was not represented, but Mr. Kennedy and Mr. Cody stated on behalf of the

joint committee that the plan outlined by the company was satisfactory to their towns and asked that the company be allowed to put it into effect upon short notice.

The Commission in its report and order of July 25, 1918, relative to the fares of this company, authorized the company in its discretion to adopt the fare system now in effect or to divide the system into 25 zones averaging about one mile in length with a rate of $2\frac{1}{2}$ cents per zone and a minimum fare of 5 cents for a ride in any two adjacent zones. This would make the fare over all lines of the company 63 cents. Under the plan now proposed the zones average a little more than 2 miles in length with a 5-cent unit of fare, making the aggregate fare 55 cents.

As the fares now suggested by the company are somewhat lower than those heretofore approved by the Commission and as operating costs have increased rather than decreased since the date of the last hearing, the Commission permitted the company to file a schedule embodying the fares proposed, and to make the same effective upon short notice on June 1, 1919.

Attest: ANDREW A. HIGHLANDS,
MAY 29, 1919. [P. S. C. 2425] Secretary.

*Petition of the Trustees of Hospitals for Consumptives (Westfield)
relative to extension of fare limit on the Springfield street rail-
way in the town of Westfield.*

Memorandum.

A hearing was held upon this petition and the matter has also been the subject of investigation by the Inspection Department of the Commission. Following a subsequent conference with the company it was agreed that the cash fare ride on the Springfield street railway of 12 cents from Springfield and of 6 cents from West Springfield be extended from the West Springfield-Westfield town line to the underpass at the sanatorium in Westfield. The case is therefore placed on file.

Attest: ALLAN BROOKS,
FEBRUARY 4, 1919. [P. S. C. 2307] Assistant Secretary.

*Notice of the Worcester Consolidated Street Railway Company of pro-
posed increase in rates of fare for passengers upon its railway.*

After the company's tariff M. P. S. C. No. A6 had been filed, and by successive orders of the Commission, dated October 7,

1919, and November 12, 1919, the rates and charges described in said tariff had been suspended until December 1, 1919, unless otherwise ordered, a public hearing on this subject was held on November 25, 1919, at which it appeared that, as a result of negotiations theretofore entered into between the company and the communities affected with respect to the rates which should be installed, an adjustment of matters complained of had been reached in the case of a majority of the communities and that other adjustments have been made by the company at the suggestion of the Commission following said hearing, and it appearing that it was the general wish of all parties that any new rates should be promptly established for an experimental period of thirty days, at the termination of which period the company or any community might apply to the Commission for further consideration and action with respect to any matters arising out of the printed schedule hereinafter authorized to be filed on short notice, —

It is therefore

Ordered, That the Worcester Consolidated Street Railway Company be and it is hereby notified to cancel the rates and charges stated in the schedule now on file and numbered M. P. S. C. No. A6.

And it is

Further ordered, That the Worcester Consolidated Street Railway Company be hereby notified that it may readjust the rates and charges upon its lines within thirty days of the date hereof, but not before November 28, 1919, upon not less than one day's notice to the Commission and the general public, by filing at this office and posting in a conspicuous manner in its waiting rooms and cars, in the manner prescribed in section 20 of chapter 784 of the Acts of 1913, a printed schedule readjusting its rates and fare limits and transfer privileges substantially in accordance with the memorandum-schedule on file with the Commission.

And it is

Further ordered, That a copy of this order be filed at the office of the Commission and that a copy hereof be forthwith served upon the Worcester Consolidated Street Railway Company.

Attest: ANDREW A. HIGHLANDS,

NOVEMBER 26, 1919. [P. S. C. 2479]

Secretary.

Petition of residents of the town of Northbridge for the establishment of a five-cent fare on the Worcester Consolidated street railway between Plummer's Corner and Whitinsville.

Memorandum.

In view of the re-arranged schedule of fares made effective on the Worcester Consolidated street railway under authority of the Commission dated November 26, 1919 (P. S. C. 2479), further action on this matter appears to be unnecessary and the petition is placed on file.

For the Commission,

ALLAN BROOKS,

NOVEMBER 29, 1919. [P. S. C. 2405]

Assistant Secretary.

STREET RAILWAY TRANSFERS.

Petition of Representative Frank B. Phinny for restoration of certain transfer privileges on the Hyde Park line of the Bay State Street Railway Company.

Memorandum.

At a hearing held upon this petition a satisfactory adjustment was made in the matter. No further action is necessary and the case is placed on file.

Attest: ANDREW A. HIGHLANDS,

APRIL 16, 1919. [P. S. C. 2369]

Secretary.

Notice of the Union Street Railway Company of proposed elimination of certain transfers on its railway.

HENRY H. CRAPO }
ELTON S. WILDE } for Union Street Railway Company.

JOHN W. CUMMINGS }
CHARLES R. CUMMINGS } for City of Fall River.

BENJAMIN B. BARNEY for City of New Bedford.

GEORGE RICHARDS }
JOHN J. VERA } for Residents of North Dartmouth.

On January 20, 1919, the Union Street Railway Company notified the Commission of its intention to eliminate the free transfer privileges now furnished within the city of New Bed-

ford to patrons of the Dartmouth and Westport division of that company. The schedule providing for this change was suspended, pending investigation, until June 10, 1919, and public hearings were held on February 6, February 19 and April 2.

The Dartmouth and Westport division of the Union Street Railway Company consists of a high-speed interurban line operated from the center of Fall River over the tracks of the Bay State Company to the Fall River–Westport boundary line, thence over the tracks formerly owned by the Dartmouth and Westport Street Railway Company through the towns of Westport and Dartmouth to the Dartmouth–New Bedford boundary line and from the latter point over the tracks of the Union Street Railway Company to the center of New Bedford. In 1910, the Dartmouth and Westport Street Railway Company, after operating as an independent company since 1893, was consolidated with the Union Street Railway Company. Formerly the line owned by the Dartmouth and Westport Company, which ran from the city limits of Fall River to the city limits of New Bedford, was divided into three fare zones with a 5-cent fare in each, and passengers riding between the centers of the two cities paid an additional fare of 5 cents to each of the two terminal companies. The rate for the through ride was thus 25 cents, and passengers received the same transfer privileges as those afforded to patrons of the city lines in Fall River and New Bedford.

At the present time the Dartmouth and Westport division is divided into four zones, with a 5-cent unit of fare, making the through rate 20 cents. The first zone extends to the city limits of Fall River, a distance of approximately $2\frac{1}{2}$ miles, the second zone extends through the town of Westport, a distance of approximately 5 miles, the third zone through the town of Dartmouth, a distance of approximately $4\frac{1}{4}$ miles, and the fourth zone extends from the city limits to the center of New Bedford, a distance of approximately 2 miles. There is a short overlapping fare zone near the Westport–Dartmouth town line to accommodate travel to Lincoln Park, and there is also a lap-over in the New Bedford zone extending to the corner of the cross road and the state highway in the town of Dartmouth. Under the operating agreement with the Bay State Company one-fifth of the 20-cent fare paid by through passengers goes to that company, the balance being retained by the Union Company. Prior to last year, through passengers might transfer without additional charge to all local lines at the centers of both

cities. As the result of the rearrangement of fares and fare limits authorized by the Commission on the lines of the Bay State Company in Fall River, the transfer privileges between the local lines of that company and the Dartmouth and Westport division of the Union Company were cancelled. The pending tariff provides for a similar elimination of transfer privileges at the other end of the line of New Bedford.

The company contends in substance that it needs additional revenue to meet the cost of service including a fair return on invested capital for the current year; that with the additional revenue which it expects to receive under the plan proposed, estimated at approximately \$40,000, it may, with strict economy of operation, be able to postpone, if not to avoid, a general increase of fares; that the needed revenue can be obtained in this way with least burden to the public; and that there is no sound reason for retaining the transfer privileges in New Bedford after the similar transfer privileges in Fall River have been eliminated with the approval of the Commission.

No objection to the proposed schedule was offered by residents of New Bedford at the hearings, and the mayor of that city stated in writing that the city did not oppose the discontinuance of these transfer privileges, believing it to be in the public interest to avoid, if possible, any decrease in the present service or any increase in the present 5-cent unit of fare. Opposition to the schedule was, however, offered by residents of Smith's Mills and other villages in North Dartmouth who are employed in the textile mills of New Bedford and who are dependent upon this line for daily travel to and from their homes, as the city line does not extend beyond the city limits. As the zones are now arranged lap-over privileges, as already stated, are given on this line to the cross road, a distance of $4\frac{2}{3}$ miles from the center of the city. Residents of these villages can now ride to the center of New Bedford, and by transfer to the Purchase street line, can reach the mills located at the north and the south ends of the city for a single 5-cent fare. If the transfer privileges were abolished they would be compelled to pay 10 cents daily in each direction to reach their destination. As the Commission was of the opinion that the proposed schedule would result in undue hardship to the residents of this district, the company and the complainants agreed to an adjustment by which three extra cars should be run morning and evening between the cross road and the mills in both the north and the south ends of the city, thus

giving the mill workers transportation to and from the mills for a 5-cent fare in each direction.

With the adjustment of this complaint the patrons of the Dartmouth and Westport line residing in the city of New Bedford and the towns of Dartmouth and Westport are apparently agreed that the company should be allowed the additional revenue resulting from the proposed elimination of transfer privileges in order to enable it to maintain its present low level of passenger rates. The only outstanding complaint is that of the city of Fall River, which was represented at the hearings by special counsel in remonstrance to the proposed schedule. This complainant contended that the retention of free transfer privileges on this line was required under the terms of the operating agreement between the Bay State and Union companies; that the proposed plan of raising additional revenue was discriminatory against the long-haul rider; and that the financial results of operation, either of this line or of the company's entire system, failed to disclose any legitimate need of additional revenue.

The operating agreement referred to above, a copy of which is filed with the record of the case, was entered into on January 1, 1903. Under this instrument the Dartmouth and Westport Street Railway Company, the Union Street Railway Company and the Old Colony Street Railway Company, now a part of the Bay State system, agreed to a plan for the operation of through cars from the center of Fall River to the center of New Bedford over the lines of the three companies, the Dartmouth and Westport Company, as already stated, owning the railway between the boundaries of the two cities. The agreement contained detailed stipulations in regard to the operation and storage of cars of the Dartmouth and Westport Company, the use of main and spur tracks, poles and wires and the adjustment of claims for damages, and provided that the current necessary for the operation of the through cars as far west as the Dartmouth-Westport line should be supplied by the Union Company and for the remainder of the route by the Old Colony Company. It also provided for a rate of 20 cents apportioned between the three companies for a through ride from Fall River to New Bedford, including transfer privileges in both cities.

This agreement has never been formally amended by any other written instrument but, subject to the changed conditions growing out of the consolidation of the Dartmouth and Westport Company with the Union Company, and to modifications from

time to time verbally agreed to by the Union and Bay State companies, still remains in effect. The Bay State Company was duly notified of the hearings in this case and was invited to enter an appearance if it deemed that its rights under this agreement might be prejudiced by the present proceeding. Counsel for the company, however, notified the Commission in writing that it did not care to be heard in this matter. If, as appears to be the fact, the parties have agreed to a modification of the original provisions of the agreement of 1903, under which the transfer privileges on this line have already been eliminated in Fall River and may, subject to the approval of the Commission, be eliminated in New Bedford, we are of the opinion that the city of Fall River, which has never been a party, has no legal right to insist that this agreement operates as a bar to the proposed elimination of transfer privileges or is controlling as against the general statutory authority of the Commission to fix rates which are just and reasonable.

The city of Fall River also claimed that the elimination of transfers for patrons of the through line while similar transfers were to remain available for local riders would constitute a discrimination against the long-haul rider. In support of this contention it was pointed out that the last 5-cent fare paid by the through passenger would carry him only from the Dartmouth-New Bedford boundary line to the center of the city, a distance of slightly under 2 miles, while the same fare paid by a passenger boarding a local car at the same point would entitle him, through the use of a transfer, to ride more than twice the distance.

The discrimination alleged, however, is more apparent than real. If the through rate for through transportation is equitable and proper, the through rider has no legitimate concern in the specific points where the fare installments are collected. The relative length of the constituent fare zones is, however, of vital importance to the local riders, and in recognition of that fact fare zones under general street railway practice have not been laid out on a uniform mileage basis, but vary greatly in length so as better to meet the local transportation needs of the several communities. It is to be observed that under the proposed schedule suitable provision is made for local travel on this line through the extension of the local fare limit to the cross road. Patrons of this line paying one fare only are thus not confined to a 2-mile ride, but are permitted to ride a distance of $4\frac{2}{3}$ miles to and from the center of the city, and, under the arrangement

agreed to by the company, are to receive a satisfactory equivalent for existing transfer privileges. So far as the through rider is concerned, he is afforded a ride of 13.73 miles for 20 cents, or at the rate of 1.45 cents per mile. The local passenger boarding a local car at the Dartmouth-New Bedford boundary and following the route of the through line to the center of the city rides 1.92 miles for 5 cents, or at the rate of 2.6 cents a mile. The local passenger thus pays nearly twice as much per mile as the through passenger and may fairly, as an offset, be given a transfer.

Moreover, even if the through rates were higher than the local rates, this would not necessarily constitute discrimination as the two services differ in many important respects. There is a well recognized distinction between an interurban railway which serves as a connecting link between adjacent cities and which operates over a location and under conditions which permit of relatively high speed, and a city railway company performing the ordinary local street railway service. In most other parts of the country the two kinds of service are entirely distinct, the two classes of companies are separately owned and managed, and wholly different fare systems are employed, the interurban companies usually charging on a mileage basis of 2, $2\frac{1}{2}$ cents or more per mile, like the steam railroads, and the city companies having a flat fare or a combination of a flat fare and a zone system such as we find in our own cities.

In Massachusetts, where the cities and large centers of population are relatively close together, the city systems in their early years of development gradually spread out and took in more and more of the suburban and outlying territory until the suburban districts of adjacent systems overlapped, or a short connecting link was built and the separate companies were merged into a single system. This process tended to discourage the proper development of interurban and city lines alike and resulted in building up street railway systems consisting for the most part of a heterogeneous combination of lines, which does not conduce either to efficient or profitable operation. The only notable exception is the Union Street Railway Company, whose management from the beginning was content to devote its energies to the upbuilding of an efficient system of city transportation on a sound business basis, rather than to indulge the hope of participating with the promoter and the stock-jobber in the easy profits which were expected to result from the popular program of expansion and consolidation. Under this policy the

only consolidation in the history of the company since its organization in 1887 was that with the Dartmouth and Westport Company in 1910, after the latter company had been left free to develop a successful interurban service between New Bedford and Fall River.

Since consolidation, the Dartmouth and Westport line is operated as a separate division and represents to-day probably the best example in this state of an efficient high-speed interurban service, such as is furnished in the Middle West and other sections of the country. The line is designed primarily for through travel, carries no local passengers and runs express between the city centers in about an hour. The service is thus in many ways analogous to and competitive with the railroad service. It accommodates a large volume of casual business travel between the two cities which is pretty evenly divided between the different hours of operation, so that the cars are usually comfortably filled without overtaking the seating capacity.

The local city lines, on the other hand, are mainly utilized by those traveling daily between their homes and places of employment, many of whom are necessarily subjected to the discomfort resulting from the congestion of travel during the rush hours. On the basis of the convenience and accommodation furnished, there seems to be no sound reason why a specialized form of transportation in high-speed cars with adequate seating capacity at all hours should be furnished at the same rate as transportation on city lines under the conditions attendant upon that form of travel. As already pointed out, a different and higher rate for such interurban travel is customary in other states.

Moreover, the policy of making special concessions, through overlapping zones or reduced rates of fare, which are available for daily commuter travel but not for casual or through travel, has been recognized by nearly all street railway companies, and has time and time again received the approval of the regulating authorities in this and other states. The same principle underlies the monthly or other commutation rates which are furnished by practically all railroads at a substantial reduction from the ordinary single-ticket rate. From whatever standpoint the matter is viewed, it seems to us that the claim of discrimination against the long-haul rider under the schedule proposed is wholly without foundation.

It was also claimed that the proposed increase of rates through the elimination of free transfer privileges on this line is not

justified by the revenue needs of the company. The figures show, and the company admits, that this line is one of the most profitable of the entire Union street railway system and that an increase of rates on the showing of this line alone is not justified. That fact, however, is not controlling. Lines which are not wholly self-supporting must in many cases be maintained in order to afford reasonable accommodation to the public. This can be done only if the company is permitted to operate certain other lines at a profit. In the present case it seems reasonable that this line, which is favorably located for the attraction of a large and remunerative traffic, should contribute towards the support of other lines which are less advantageously situated, especially when its patrons, as already shown, will enjoy, even under the new schedule, an exceptionally high grade of service at an exceptionally low rate.

The further claim was made that not only this particular line but the company's entire system is operated at a profit, and that the company had failed to disclose such need of additional revenue as would justify an increase in existing rates. After the payment of operating expenses, including depreciation, interest and fixed charges, the company's figures for 1918 show a net divisible income of \$143,695. The allowance made for depreciation appears to be adequate but not excessive. The capital stock of the company outstanding up to December 1, 1918, all of which was approved by the Commission or the Board of Railroad Commissioners, amounted at par value to \$1,625,000. Premiums thereon were paid to the amount of \$545,800, making the average price per share \$133.59. For a considerable period of time the company has paid regular dividends of 8 per cent which are equivalent to a return of slightly less than 6 per cent on the total stock investment.

Last year the company applied to the Commission for approval of an issue of additional stock to the amount of \$812,500. Owing to the abnormal conditions caused by the war and the prevailing high interest rates the Commission, on June 19, 1918, approved the issue of this stock at par (6th P. S. C. Rep., p. 365). The proceeds of this stock were to be used in part for the retirement of floating debt, but were intended mainly to provide means for the construction of a new power house. The new stock was issued on December 1, 1918, and during the year floating debt to the amount of \$115,500 was retired. During the present year, therefore, it will require \$65,000 additional to pay the customary

dividend on the capital stock and this amount will be offset to a minor degree only by the reduction of interest on floating debt.

As a result of an increase in wages the labor cost for the present year will also be about \$100,000 higher than for last year. A careful estimate of the financial results of operation, largely based upon known factors, which was submitted by the company for the present year, shows a net divisible income under present fares of only \$31,000 which is insufficient by \$147,000 to pay a 6 per cent return on the stock investment. The actual results of operation for the first three months of this year also show that the company financially fell behind about \$42,000 as compared with the same period of last year. If net earnings should pursue the same course throughout the year, the company's net divisible income of last year would be entirely wiped out. From such investigation as we have been able to make of the financial affairs of the company in the present proceeding we see no reason to believe that the company will receive an excessive return if it is permitted to put the new fare schedule into effect.

While the computation of revenue needs has been made on the basis of a 6 per cent return on the legitimate stock investment, it is to be observed that the 6 per cent return on the entire property which has been allowed by the Commission in other cases has usually represented a return of 7 per cent or more on the amount paid in for stock. The Commission has also frequently expressed the view that the rate of return should not be uniform for all companies, but should be measured in each case by the efficiency of the management and the character of the service rendered. On that basis, the Union Company, whose record of successful street railway operation is unique in the history of the state, might fairly be entitled to reap the reward of its enterprise and sagacity by being permitted to earn more than the normal rate of return.

It is doubtful, however, if it is necessary to find that the company is entitled to additional revenue in order to sustain the schedule filed. Through passengers, after paying 15 cents for transportation to the Dartmouth-New Bedford boundary line, may, under the new schedule, transfer to a local car at that point and, upon payment of an additional 5-cent fare, may ride to the center of the city and receive the usual transfer privileges furnished to local passengers. In other words, the new schedule does not *require* the payment of any higher fares for through passengers, but may be justified as a service arrangement de-

signed to restrict the through cars to their proper function of affording accommodation for through travel and to encourage passengers desiring local city service to avail themselves of the facilities furnished for that purpose.

Upon the whole record, in view of the comparatively slight burden imposed, the excellent service furnished, the manner in which the property has been maintained and depreciation requirements have been met, the low rates now prevailing and the difficulty under modern operating costs of maintaining the old basis of fares, we are prepared to approve the schedule as filed, upon the understanding that the company will, concurrently with the adoption of the new schedule, operate the additional morning and evening service already referred to for the benefit of the Smith's Mills district. The general rulings made and conclusions reached herein make it unnecessary formally to rule upon certain motions filed by counsel for the city of Fall River during the course of the hearings.

ORDER.

It appearing that on February 19, 1919, an order was entered suspending until March 20, 1919, the rates and charges stated in the schedule described in said order and designated as Union Street Railway Company M. P. S. C. No. 3, and that by subsequent orders such rates were further suspended, unless otherwise ordered by the Commission, until June 10, 1919; and it further appearing that a full investigation of the matters and things involved has been had, and that the Commission, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is herein referred to and made a part hereof, —

It is

Ordered, That the orders heretofore entered in this proceeding, suspending the operation of said schedule be and they are hereby vacated and set aside as of June 6, 1919, and that this proceeding be discontinued.

It is

Further ordered, That a copy of this order be filed with said schedule at the office of the Commission and that a copy hereof be forthwith served upon the Union Street Railway Company.

By the Commission,

ANDREW A. HIGHLANDS,

JUNE 6, 1919. [P. S. C. 2356]

Secretary.

TELEGRAPH RATES.

Application of the Western Union Telegraph Company to continue the schedule of rates of said company made effective by the Postmaster General of the United States.

It appearing, after consideration, that by virtue of an Act of Congress recently passed, the control of the Postmaster General over the telegraph system of the Western Union Telegraph Company will cease July 31, 1919, and, effective August 1, 1919, the operation of the company's system will revert to the Western Union Telegraph Company; that no provision is made in said Act of Congress with respect to the rates which shall become effective on and after August 1, 1919; that the company, on July 28, 1919, made application to the Commission to continue in effect, pending final determination, the present schedule of rates applicable between points within Massachusetts; and that an arrangement similar to that provided for in said Act of Congress with respect to the rates of the telephone companies may reasonably be made with respect to the rates of the Western Union Telegraph Company, —

It is

Ordered, That the Western Union Telegraph Company be hereby authorized to make effective August 1, 1919, and to continue in force for a period not to exceed four months from said date, the schedule of rates applicable between points within the commonwealth of Massachusetts established on April 1, 1919, under an order of the Postmaster General of the United States, and filed with this Commission on July 28, 1919; said schedule of rates, upon not less than three days' notice by filing with the Commission, to be made effective under this authority upon the date and to continue during the period above mentioned unless sooner modified or changed by the Commission.

By the Commission,

ALLAN BROOKS,
Assistant Secretary.

JULY 28, 1919. [P. S. C. 2459]

Application of the Western Union Telegraph Company to continue the rates put into effect during the period of federal control.

Memorandum.

On the 1st day of August, 1918, the President of the United States took possession of and assumed control of all telegraph systems in the United States, and assigned to the Postmaster General the duty of administering such control and supervision. During such period of federal control certain changes were made in the rates, charges, rules and regulations of the telegraph companies operating within this commonwealth. By Act of Congress approved the 11th day of July, 1919, all said telegraph companies were released from federal control, and such companies operating within this commonwealth thereupon became subject to the jurisdiction of the Public Service Commission of this commonwealth on and after August 1, 1919. The said company then filed with this Commission tariffs to become effective on and after August 1, 1919, which provided in substance for the continuance of the rates and charges established by the Postmaster General. On July 28, 1919, the Commission issued an order continuing in force the said rates for a period of four months from August 1, 1919. The said company later filed a further petition praying that the same rates be made permanent. The Commission has entered upon, but has not yet completed, an investigation in regard to the reasonableness of the rates so filed. As we are of the opinion that the existing rates should temporarily remain in effect until such time as the Commission is enabled to complete its investigation, we have decided to allow the rates proposed to become effective pending an adjudication by the Commission with respect to the just and reasonable rates and charges hereafter to be in force and effect. This action is taken upon the understanding, and with the express agreement of the Western Union Telegraph Company that the said company shall, in the hearings and proceedings hereafter to be held upon the tariffs so filed, assume and carry the burden of proof of showing that the rates specified in said tariffs are just and reasonable, in the same manner and to the same extent as if said tariffs were suspended.

By the Commission,

ALLAN BROOKS,

NOVEMBER 29, 1919.

[P. S. C. 2459]

Assistant Secretary.

TELEPHONE RATES.

Petition of Charles H. Porter relative to certain rates and contract awards of the New England Telephone and Telegraph Company.

Memorandum.

Following the hearings in this case and an examination by the Telephone and Telegraph Department of the Commission of the various problems presented by the petitioners, it was agreed that definite action thereon could not be taken by the Commission apart from a general investigation of the propriety of the entire rate schedules of the New England Telephone and Telegraph Company. It was further agreed that whenever the Commission undertook to make such a general investigation, the specific matters presented by the petitioner would be made a part thereof.

Attest: ANDREW A. HIGHLANDS,
NOVEMBER 19, 1919. [P. S. C. 1542] Secretary.

Notice of the New England Telephone and Telegraph Company, the Providence Telephone Company, the Heath Telephone Company and the Highland Telephone Company relative to rates put into effect during the period of federal control.

Memorandum.

On the first day of August, 1918, the President of the United States took possession of and assumed control of all telephone systems in the United States, and assigned to the Postmaster General the duty of administering such control and supervision. During such period of federal control certain changes were made in the rates, charges, rules and regulations of the telephone companies operating within this commonwealth. By Act of Congress approved the 11th day of July, 1919, all said telephone companies were released from federal control, and such companies operating within this commonwealth thereupon became subject to the jurisdiction of the Public Service Commission of this commonwealth, on and after August 1, 1919, provided, however, that the existing toll and exchange rates should continue in effect for a period not exceeding four months, unless altered by the proper state authority. The said companies have severally filed with this Commission tariffs to become effective on and after December 1,

1919, which provide in substance for the continuance of the rates and charges established by the Postmaster General. The Commission has entered upon, but has not yet completed, an investigation in regard to the reasonableness of the rates so filed. As we are of the opinion that the existing rates should temporarily remain in effect until such time as the Commission is enabled to complete its investigation, we have decided to allow the rates proposed to become effective pending an adjudication by the Commission with respect to the just and reasonable rates and charges hereafter to be in force and effect. This action is taken upon the understanding, and with the express agreement of the several companies that they shall, in any hearings and proceedings hereafter held upon the tariffs so filed, assume and carry the burden of proof of showing that the rates specified in said tariffs are just and reasonable, in the same manner and to the same extent as if said tariffs were suspended.

Attest: ALLAN BROOKS,
NOVEMBER 29, 1919. [P. S. C. 2531] *Assistant Secretary.*

STREET RAILWAY SERVICE.

Complaint of the Squantum Improvement Association and others concerning the restoration of service on the Squantum line of the Bay State street railway.

Memorandum.

At a conference held upon this complaint it appeared that the operation of the line in question was discontinued by the receiver of the Bay State Street Railway Company, acting under instructions of the federal court, owing to the unsafe condition of the track and its poor earnings. It appeared from the facts brought out at the conference that the Commission was without authority to compel the company to resume operation of the line, and as the property was soon to be turned over to and operated by the Board of Trustees appointed under the provisions of chapter 188 of the Special Acts of 1918, it was suggested that the petitioners take the matter up with the trustees to see if arrangements could be made for restoration of the service on this line. The Commission is informed that this has been done and the complaint is dismissed.

Attest: ANDREW A. HIGHLANDS,
JUNE 28, 1919. [P. S. C. Comp. 1626] *Secretary.*

Petition of Selectmen of the town of Weymouth and others for resumption of service upon a portion of the Bay State street railway in that town.

At a hearing held upon this petition, it appeared that the Bay State Street Railway Company discontinued the operation of a portion of its line in the town of Weymouth leading from Columbian Square to South Weymouth depot, a distance of about 2,900 feet, on the ground that the track had become unsafe for further operation and the outlay required to place it in safe and proper condition was not warranted by the traffic on the line. The company was then in the hands of a receiver. Counsel for the receiver stated that the company had no funds to make the needed repairs and that if it had, it would not be justified in expending them on that portion of the property. The Commission did not feel that it had any mandatory authority, under the existing conditions, to compel the company to operate the part of the line above referred to and so stated at the hearing. Since the hearing, the Bay State Street Railway Company has reorganized under the name of the Eastern Massachusetts Street Railway Company and its entire management and control were taken over on June 1, 1919, by a board of public trustees appointed under chapter 188 of the Special Acts of 1918. As the Commission no longer has jurisdiction in the matter, —

It is

Ordered, That the petition be dismissed.

For the Commission,

ANDREW A. HIGHLANDS,

OCTOBER 8, 1919.

[P. S. C. 2214]

Secretary.

Petition of Mayor of the city of Boston relative to the relocation and proper grading of the tracks of the Bay State Street Railway Company in Hyde Park avenue in that city.

This is a petition of the city of Boston that the Bay State Street Railway Company be ordered to relay its tracks in Hyde Park avenue and to repave the portion of the avenue included within the tracks as relaid and for a distance of eighteen inches outside thereof. The petition sets forth that it is necessary "to repair the surface of said Hyde Park avenue, and that the work

necessary to be done will require the removal, relaying of tracks, and repaving of the surface of said highway, that the city of Boston has duly requested said street railway company to fulfill its obligations in relation to said Hyde Park avenue, but said street railway company has refused to do so, or to participate in the necessary work to be done there. It appeared at the hearing that it was the contention of the city of Boston that by reason of provisions in the original grant of location the street railway company is required, upon an order by the city, to relocate its tracks in such manner as may be directed by the city, so as to conform to the grade of the street as now proposed. It relied upon a provision in the original grant of location, given at a time when that part of Boston known as Hyde Park was a town, which is as follows:—

The alignment of said track, together with the curves, turnouts and switches shall be given by the selectmen of said town, and the tracks shall be laid to conform with the present grade of the street. If, however, at any time the grade of any street in which the tracks of said railway company are located is changed, then said company shall at its own expense change its tracks to conform with the same.

And the further provision:—

The gauge of the tracks shall be 4 feet 8½ inches. The railway company shall keep that portion of the streets and highways as are included between its tracks and for a distance of 18 inches outside thereof, at all times flush with the top of the tracks and shall keep the same in repair to the satisfaction of the selectmen.

It was contended that under these provisions the street railway company would be required to comply with the order of the city of Boston but for the provisions of section 20 of chapter 188 of the Special Acts of 1918, entitled, "An Act Relative to the Bay State Street Railway Company," which provides, in part, that "the new company, during the continuance of the war and for a period of two years thereafter, shall not be required, except with the express approval of the Public Service Commission after a hearing, to pay any part of the expense of the construction, alteration, maintenance or repair of any street, highway or bridge or any structure maintained or placed therein or thereon . . . and shall not, without such approval, be required directly or indirectly to make any payment or incur any expense whatsoever for or in connection with the construction, alteration,

maintenance or repair of any street, highway or bridge, or the abolition of any grade crossing or the removal of wires." It thus developed that the real purpose of the petition was to obtain the approval of the Public Service Commission, under said section 20, of the removal and relocation of the tracks of the company and the repairing between the rails as so relocated at its own expense, to conform to the changes in the highway proposed by the city of Boston. The proposed changes in Hyde Park avenue were not instituted at the request of the street railway company, nor, so far as appeared, were they in any way necessary to the convenient and efficient operation of the street railway. As was stated by the assistant corporation counsel of the city of Boston, the proposition arises at the initiative of the public officials of the city of Boston. The city of Boston determined to widen the street for the safety of public travel, and because of this proposed widening of the highway the street railway company was ordered to change its location. Assuming, under these circumstances, that the street railway company is liable under the original grant of location to make such changes of location at its own expense and can be required to repave the portion of the highway lying between its tracks as so relocated as to which there is grave doubt, the Commission is of the opinion that it ought not to grant its approval under the provisions of said section 20. Accordingly,

It is

Ordered, That the petition be dismissed.

	Attest:	ALLAN BROOKS,
NOVEMBER 29, 1919.	[P. S. C. 2361]	<i>Assistant Secretary.</i>

Petition of committee representing the towns of Lee, Becket, Otis, Blandford, Russell, Huntington and Westfield, and the city of Springfield, relative to the opening and operation of the Lee-Huntington line of the Berkshire street railway.

This is a petition requesting the Commission to order the Berkshire Street Railway Company to reopen for public travel its line of railway, constructed under the provisions of chapter 601 of the Acts of 1910, between the towns of Lee and Huntington. The portion of this line from its connection with the company's main line in East Lee to Phelps Farm crossing in the town of Otis, a distance of 12.54 miles, was opened for use in Decem-

ber, 1915, and a certificate for the operation of an additional section of the line about 3,800 feet in length, from Phelps Farm crossing to Algeree Four Corners, in the town of Otis, was issued by the Commission on August 21, 1916. At that time the remainder of the line to its terminus in the town of Huntington, a distance of 10.6 miles, had been partially constructed, but the company showed no apparent disposition to complete this portion of the line so as to make it available for public travel. The towns affected thereupon petitioned the Commission to require the company to complete the line and open it for use.

After public hearing the Commission, in an order issued December 30, 1916, directed the company to complete the construction of the line in a manner satisfactory to the Commission, and to open the entire line for use on or before July 1, 1917 (4 P. S. C. Rep., p. 160). In compliance with this order, the company completed the work of construction as soon as practicable, a certificate of operation, stating that the line appeared to be in a safe condition for operation and that all laws preliminary to operation had been complied with, was issued by the Commission on August 17, 1917, and on the same date the entire line was opened for both freight and passenger transportation.

During the following winter the company, of its own motion, but without complaint from the towns affected, suspended the operation of the line, but, as the result of conferences of representatives of the towns with the Commission and the company, operation was resumed on April 24, 1918. Last winter, owing to the influenza epidemic and disturbed labor conditions, the company, with the acquiescence of the towns, again suspended the operation of the line. Early this spring, representatives of the towns conferred with the company with a view to securing the restoration of service. The company, however, declined to reopen the line unless the deficit of operation which it estimated on the basis of its experience of last year, at \$8,000, was contributed by the towns under the provisions of chapter 288 of the General Acts of 1918, or was otherwise guaranteed or made good to the company. This proposition was declined by the towns, and the present petition was brought to require the company to reopen the line for public travel.

The petitioners allege that the continued operation of this line is vital to the development of the entire region through which it is operated, that the company, by its acceptance of chapter 601 of the Acts of 1910, is under a contractual obligation to continue

the operation of this line, and that the Commission should require the company to fulfill this obligation. The company, on the other hand, contends that its financial condition does not warrant it in assuming the additional loss due to the operation of this line, that the contract between the company and the Commission embodied in the act of 1910 has been held by the federal courts to be in restraint of trade and commerce, and as such illegal and void from its inception, and that, in any event, that statute raises no obligation to resume the operation of the line under existing conditions.

The Commission in the report accompanying its order of December 30, 1916, already referred to, stated that "it does not appear that the financial condition of the company is such as to justify the Commission, under ordinary conditions, in requiring the company to assume an additional financial burden through the operation of an unprofitable line." At the hearing on the present petition, counsel for the petitioners agreed that the above finding was correct as matter of law. If that be so, the financial results of operation of the company's lines since 1916 merely strengthen the conclusion then reached. For the year ended June 30, 1916, the company had a net operating revenue of approximately \$225,000, but its total income was insufficient by about \$87,000 to pay operating expenses, taxes, interest and other fixed charges. For the year ended December 31, 1918, the company failed by over \$181,000 to earn even its operating expenses, and failed by over \$561,000 to earn its operating expenses and fixed charges. During the first four months of the present year the company, under its new schedule of fares, has been making a somewhat better financial showing, but the company's figures indicate that its income is still insufficient to meet operating expense without making any allowance for taxes or interest on its debt. The petitioners agree that a company in such financial condition could not be required, under the general law, to operate an unprofitable line such as the one now under consideration. The entire case of the petitioners, therefore, admittedly rests upon the provisions of the special act of 1910.

Before examining the provisions of that statute in their bearing upon the present case, it is necessary first to consider the contention of the company that this statute is illegal and void, and that it is so declared in the decree entered October 17, 1914, in the District Court of the United States for the Southern District of New York, providing for the separation of the New Haven Rail-

road from the Boston and Maine Railroad and various steamship and trolley properties, including the Berkshire street railway, which have formed a part of the New Haven system. This decree recites that the New Haven Company and certain of its subsidiaries "are parties to combinations in restraint of trade and commerce among the several states and with foreign nations and have attempted to monopolize and now are monopolizing a part of such trade and commerce, consisting of transportation by railroad, trolley lines and steamboat lines within New England, contrary to the Act of Congress of July 2, 1890," and provides, among other things, for the sale, prior to July 1, 1919, of the shares of the Berkshire Company held by the New Haven Company, "provided, however, such sale shall not be proceeded with until action shall have been taken by the Commonwealth of Massachusetts authorizing a sale of the shares of the Berkshire Street Railway Company or until this court, on the application of any party and after a hearing at which the Commonwealth of Massachusetts shall be invited to appear, shall by further order so direct."

It is clear from the language of the decree itself that it does not purport to nullify the provisions of the statute of 1910, but contemplates either a repeal of that act by the General Court of the Commonwealth or a future adjudication with respect to its legality, after full hearing on a proceeding to which the Commonwealth is a party. In any event, however, the decree, which was entered by consent and merely embodies an agreement between the United States Department of Justice and the New Haven Company, cannot bind the Commonwealth, which was not a party thereto, or be regarded as an adjudication, even by a lower federal court, as to the legality of this statute. Unless and until the statute is found to be illegal by a court of competent jurisdiction, its provisions must be accepted as binding upon the Commission and the parties to this proceeding.

Under that statute, the New Haven Railroad Company was permitted, contrary to the general law and policy of the Commonwealth, to acquire and hold the capital stock of the Berkshire Street Railway Company, and both companies, upon and by virtue of their acceptance of the act, assumed certain obligations named therein. These included the construction of certain designated extensions of the Berkshire street railway, including the line from Lee to Huntington now under consideration, and the opening of such new lines for use prior to January 1, 1913,

unless an extension of time, for cause shown, should be granted by the Commission. The New Haven Company was also required to finance the cost of construction and to secure the completion of these lines within the time and under the authority provided for in the act, and to furnish a bond to the Commonwealth conditioned upon the fulfillment of this obligation.

The present case raises no question in regard to the forfeiture of the penal sum named in the bond, as the company, upon breach of the conditions named, is required only to pay the difference between \$2,000,000 and the amount actually expended in the construction of the various extensions provided for in the act, and as the company has already expended for this purpose an amount substantially greater than the sum named. The act, however, provides in section 6, that "instead of enforcing the penalty of said bond, the general court may direct the attorney-general to bring a bill in equity against the Berkshire Street Railway Company and said railroad corporation, in which the Commonwealth shall be entitled to, and by their acceptance of this act each of said companies shall be deemed to have assented to, the issue of a permanent injunction or decree, in appropriate form, for the specific performance of their several contracts resulting from their acceptance of this act, directing said street railway company to construct and open for use, and said railroad corporation to provide, in the manner prescribed in section one, the means for meeting the expense of constructing and opening for use each and all of the lines of railway specified in, or approved under the provisions of, section three of this act, which shall not have been constructed and opened for use at the expiration of the time provided for in said section three."

As the statute contemplates the enforcement of the conditions of the bond through a bill in equity brought by the Attorney-General upon the authorization of the General Court, the present petition asking the Commission to order the restoration of service on this line is not to be regarded as a proceeding upon the bond, but is based upon the obligations of the company with respect to the operation of this line as defined in section 3 of the act. But while the conditions named in the bond are, strictly speaking, not in issue at this time, they may properly be considered as evidence of the obligations assumed by the company under the act.

Under the provisions of section 3 the Berkshire Street Railway Company is required, prior to the date named in the act or such

later date as may be approved by the Commission, to "construct and open for use" the various lines designated "in a manner satisfactory to the board of railroad commissioners and upon such locations as shall be designated in the petitions of said street railway company and approved by said board." It is admitted by the petitioners that this line has been constructed in compliance with the provisions of the act and that it was duly opened for use on August 16, 1917. They claim, however, that the statute in requiring the line to be opened for use is reasonably to be construed as requiring continued operation, and that the discontinuance of the line after a comparatively brief period of operation is in violation of the intent and purpose of the act.

It is doubtless true that if the company had opened the line for use and had immediately thereafter arbitrarily discontinued operation without just cause or excuse, its action might be regarded as a breach of faith, if not a breach of the contract obligations which it assumed by acceptance of the act. These, however, are not the facts in the present case, as the company has apparently attempted to operate the line as long as its financial condition would permit. As already pointed out, the company is not earning sufficient money to pay the bare expense of operation, and its total revenue last year was insufficient by more than a half million dollars to meet its operating expense, taxes and fixed charges, without making any provision for dividends upon its stock. Moreover, the New Haven Railroad during the period of federal control has not been permitted to assist the Berkshire company in meeting any of its deficits of operation. Obviously, under these conditions the operation of the entire system is seriously jeopardized and unless the financial condition of the company can be improved by the installation of one-man cars or other changes in methods of operation, the company must inevitably be forced to abandon the poorer paying lines in the hope of saving the remainder of the system. As the Lee-Huntington line is by far the poorest paying line on the entire system, the company's discontinuance of service on this line cannot be regarded as being without right or lawful excuse unless it is within the prohibition of the statute.

The issue in the present case is whether the company, after it has duly constructed this line and opened it for use, is prohibited by the statute from discontinuing it after the company has apparently made a reasonable attempt to operate it and when it is confronted with the financial conditions which we have described.

It is to be observed that the act of 1910 leaves the Berkshire Street Railway Company subject to the provisions of the general street railway law in all matters which are not covered by the provisions of the special act. Under the general law locations are granted to street railway companies in the public streets, in many cases grants of land or contributions of money have been made by individuals or municipalities to secure the construction of the road and large investments have been made and communities built up in reliance upon the continuance of the service, but whatever hardship the abandonment of service may involve, the law recognizes that in the absence of express statutory requirement, street railway companies may voluntarily discontinue, in whole or part, the use of their tracks when their business proves unprofitable.

The requirement of the special act with respect to this and the other lines named is that the company shall "construct and open for use." If the word "operate" had been used instead of the words "open for use," it might have been open to argue that that word implied a continuing obligation, but it is difficult to see how such a construction can be given to the words actually used, which would ordinarily be regarded as referring to a single act. It must be assumed that the language of the statute was used advisedly and that the words "open for use" are to be taken in their usual and accepted meaning, especially as the construction sought to be given them by the petitioners would be in conflict with the provisions of the general law and would impose a special and unusual obligation upon this company. This conclusion is strengthened by the provisions of section 6 of the special act with respect to the enforcement of the company's obligations upon its bond. It is clear from the language of this section, which we have quoted above, that the bond does not impose a continuing obligation of indefinite duration, but that when these lines are constructed and opened for use in compliance with the statute, all obligations under the bond are immediately discharged.

It is doubtful if the question of the continued operation of these lines was one to which the Legislature gave any special consideration while this legislation was in process of enactment. If the matter was considered at all, the Legislature doubtless assumed that the company, after expending several million dollars for the construction of these lines, would not lightly sacrifice its entire investment by abandoning them, so long as service could possibly be furnished. The company's financial stake in the enterprise amounted to a practical guarantee of operation which,

in the light of conditions prevailing in 1910, might reasonably have been regarded as sufficient. The Legislature undoubtedly did not anticipate, and in any event made no statutory provision for conditions now prevailing in the street railway field which have forced many companies to discontinue service on some or all of their lines. Under these conditions the Commission cannot, in the absence of statutory authority therefor, require the company to resume the operation of this line. This finding is in no way in conflict with the Commission's order of December 13, 1916, already referred to, as the issue in that case related solely to the completion of the line and its opening for use, and was clearly within the express provisions of the statute.

The Commission recognizes that the abandonment of street railway service in practically every case involves substantial hardship to the communities which have heretofore enjoyed this service, and, even where the company is within its legal rights in proposing to discontinue service, the Commission has endeavored from time to time by conference with the parties to work out some arrangement which would permit of the retention of service. Such a situation can be reasonably met only when a spirit of co-operation is shown on both sides. Where a line is operated at a loss and this loss is not made good by the receipts from other portions of the company's system, a public demand for continued operation is equivalent to a request for a voluntary contribution or subsidy from the company, of an amount equivalent to the deficit in operation, towards the general public welfare of the communities served. Such a request we believe cannot fairly be made of an impoverished company, unless the communities which are the sole beneficiaries of the service are prepared to share in its responsibilities and burdens. This principle is recognized in chapter 288 of the General Acts of 1918, which authorizes cities and towns to contribute to the cost of operating and fixed charges of street railway companies, to an amount not exceeding one dollar per one thousand dollars of assessed valuation. Several towns have already voluntarily contributed the maximum amount authorized by the statute, in order to preserve their street railway facilities.

The company in this case has volunteered to continue the operation of the line if its patrons or the municipalities served should make up the deficit of operation. Under this plan the company would supply, without charge or remuneration, the entire capital and plant representing an investment of over two million dollars and an annual interest charge of approximately \$125,000, while

the towns served would pay their respective proportions of a total annual charge of approximately \$8,000. As under the 1918 statute contributions can apparently be made only by the towns within which the street railway lines are located, the towns of Russell and Westfield and the city of Springfield, which are parties to the present petition and would undoubtedly share in the benefits resulting from the resumption of operation, could not legally contribute as municipalities any portion of the amount which might be required in order to secure the restoration of service. If the other five towns made the maximum contribution permitted by the statute, the aggregate amount raised would be only slightly in excess of \$6,000. If, however, these towns should deem the retention of this service of sufficient importance to justify making this contribution, we believe that the company should reasonably resume the operation of the line, with the understanding that operation may be suspended during the winter months. In any event, we would suggest the desirability of further conference between the parties, with a view to ascertaining whether any feasible arrangement can be made which will preserve to these towns the service which is so vital to their prosperity and future development.

As, however, the Commission is without legal authority to grant the petitioners the relief prayed for, —

It is

Ordered, That the petition be dismissed.

For the Commission,

ANDREW A. HIGHLANDS,

OCTOBER 30, 1919. [P. S. C. 2417]

Secretary.

Petition of residents of Conway and Ashfield relative to restoration of freight and passenger service by the Conway Electric Street Railway Company.

Memorandum.

Since the date of the hearing it appears that an agreement satisfactory to both parties has been made. It appears, therefore, that no order is necessary, and the petition is placed on file.

For the Commission,

ANDREW A. HIGHLANDS.

MARCH 19, 1919. [P. S. C. 2337]

Secretary.

Complaint of Herbert B. Mackintosh, of Needham, concerning the restoration of service on the Middlesex and Boston street railway between Needham and Wellesley.

Memorandum.

Upon a complaint of Herbert B. Mackintosh of Needham, concerning the restoration of service on the Middlesex and Boston street railway between Needham and Wellesley, a conference was held on April 21, 1919, which was attended by the president of the Middlesex and Boston Street Railway Company, the selectmen of Needham, a representative of the selectmen of Wellesley and the complainant.

It appears that the operation of this line was discontinued about August 29, 1918, on the ground that it did not pay, and that the company, in its present financial condition, could not afford to operate it. The president of the company stated at the conference that it was the intention of the company to abandon this line permanently and take up the rails, unless the towns were willing to contribute towards the expense of its operation. He further stated that in 1918 the earnings of the line averaged 11.46 cents per car mile, while the average operating expense for the whole system was something like 25 cents per car mile without including anything for taxes, interest or dividends. The fare at the time was 8 cents and the company did not feel that any additional fare would bring in much, if any, additional revenue.

As there was no disposition on the part of the selectmen of either town to recommend any contribution by the towns towards the expense of the operation of the line, and as the Commission can see no way by which it can compel the company in its present financial condition to operate this line at a loss, the complaint is dismissed.

For the Commission,

ALLAN BROOKS,

MAY 17, 1919. [P. S. C. Comp. 1634]

Assistant Secretary.

Petition of Board of Selectmen and School Committee of the town of Wayland for restoration of service on the Middlesex and Boston street railway between Cohituate and Wayland.

At a hearing held upon this petition, it appeared that the Middlesex and Boston Street Railway Company, on September 29

last, discontinued the operation of its cars over that portion of its line between Cochituate and the center of Wayland village. After the hearing a conference was held by the Commission with the officials of the company and representatives of the town, as a result of which the street railway company has entered into an arrangement with the selectmen of Wayland to operate the line to Wayland Center during the present summer, at least. In view of the foregoing, the petition is placed on file.

Attest: ALLAN BROOKS,
JUNE 13, 1919. [P. S. C. 2285] *Assistant Secretary.*

Petition of the Mayor of Woburn for restoration of service upon the Middlesex and Boston street railway between Woburn and Lexington.

In the early part of October, 1918, the Middlesex and Boston Street Railway Company discontinued the operation of that portion of its line between Woburn and Lexington, and a petition was brought by the mayor and city council of Woburn asking that the service on this line be resumed.

At a hearing upon this petition, officials of the Middlesex and Boston Street Railway Company stated the line was unprofitable, that the revenue derived from its operation fell far short of meeting its operating expenses alone, and that it was the purpose of the company to discontinue the operation of the line permanently unless it could receive financial assistance from the town to make up the operating loss. As there was some difference of opinion between the officials of the company and the mayor of Woburn as to the operating cost of the line, the Commission caused an estimate to be made by its Inspection Department of the approximate cost of the maintenance and operation of that portion of the road. The results of the estimate were submitted to the mayor and another conference between the parties was held. As the city manifested no inclination to make up the operating deficit, and as the Commission, under the conditions disclosed in this case, is without authority to compel the company to resume operation, —

It is

Ordered, That the petition be dismissed.

For the Commission,

ANDREW A. HIGHLANDS,
OCTOBER 8, 1919. [P. S. C. 2297] *Secretary.*

Petition of patrons of the Point Shirley Street Railway Company relative to inadequate service.

Petition of Point Shirley Street Railway Company for approval of the acquisition and operation of motor vehicles for the transportation of passengers in the town of Winthrop.

Memorandum.

These petitions were heard jointly as they both relate to the same subject matter.

The Point Shirley street railway is a single track line, extending from Point Shirley to Winthrop Beach station in the town of Winthrop, a distance of 1.2 miles, and was built in 1900. In October, 1912, the Boston, Revere Beach and Lynn Railroad Company purchased, under legislative authority, all the stock and assumed the floating indebtedness of the Point Shirley Street Railway Company, and since that date has operated the property. The line was originally operated by a gasoline electric car and later by a large electric storage battery car owned by the Boston, Revere Beach and Lynn Railroad Company. It is now operated by auto busses running on the highway. The use of these various motor devices has been more or less unsatisfactory to the patrons of the line, who ask to have the line operated by an overhead trolley system. To do this would require the installation of an overhead trolley, the building of a power plant or an electric transmission line, and the purchase of new, or the alteration of the present cars, all of which was estimated would cost from \$40,000 to \$50,000 — an expenditure which the company is not disposed to make and which the traffic on the line would not justify. The company has now purchased two storage battery cars, much lighter than those formerly operated, and has put them in good operating condition, and expects to have them ready for operation on the line by May 1 of this year. By this arrangement it believes patrons of the road will be given a more dependable service. As this is satisfactory to the complainants, no further action by the Commission is necessary, and the petitions are therefore placed on file.

By the Commission,

ANDREW A. HIGHLANDS,

MAY 1, 1919. [P. S. C. 2141, 2172]

Secretary.

SERVICE AT COST.

Petitions of Selectmen of Sheffield, Egremont, Great Barrington et al. relative to proposed discontinuance of service upon certain lines of the Berkshire Street Railway Company, and for approval of the terms and restrictions contained in votes of said towns authorizing certain contributions to the cost of operation and fixed charges of the lines of the Berkshire Street Railway Company within said towns.

It appearing that the town of Sheffield on November 30, 1918, the town of Egremont on December 2, 1918, and the town of Great Barrington, on December 6, 1918, have severally voted, upon the terms and subject to the restrictions set forth in said votes, attested copies of which have been filed with the Commission, to contribute to the cost of operation and fixed charges of the lines of the Berkshire Street Railway Company within said towns certain amounts, not exceeding one dollar per one thousand dollars of the preceding year's assessed valuation in each of said towns, —

It is

Ordered, That the approval of the Commission be hereby given, in accordance with the provisions of chapter 288 of the General Acts of 1918, to the terms and restrictions set forth in the votes of the towns of Sheffield, Egremont and Great Barrington on November 30, 1918, December 2, 1918, and December 6, 1918, respectively, authorizing certain contributions to the cost of operation and fixed charges of the lines of the Berkshire Street Railway Company within said towns.

By the Commission,

ANDREW A. HIGHLANDS,

JANUARY 8, 1919.

[P. S. C. 2306]

Secretary.

Petition of the selectmen of the towns of Hanson, Kingston, — Pembroke and Plymouth for approval of the terms and restrictions contained in votes of said towns authorizing certain contributions to the cost of operation and fixed charges of the lines of the Brockton and Plymouth Street Railway Company within said towns.

It appearing that the town of Hanson on December 9, 1918, the town of Kingston on December 28, 1918, the town of Pem-

broke on December 7, 1918, and the town of Plymouth on December 14, 1918, have severally voted, upon the terms and subject to the restrictions set forth in said votes, attested copies of which have been filed with the Commission, to contribute to the cost of operation and fixed charges of the lines of the Brockton and Plymouth Street Railway Company within said towns certain amounts, not exceeding one dollar per one thousand dollars of the preceding year's assessed valuation in each of said towns, —

It is

Ordered, That the approval of the Commission be hereby given, in accordance with the provisions of chapter 288 of the General Acts of 1918, to the terms and restrictions set forth in the votes of the towns of Hanson, Kingston, Pembroke and Plymouth on December 9, 1918, December 28, 1918, December 7, 1918, and December 14, 1918, respectively, authorizing certain contributions to the cost of operation and fixed charges of the lines of the Brockton and Plymouth Street Railway Company within said towns.

Attest: ANDREW A. HIGHLANDS,

JANUARY 29, 1919. [P. S. C. 2360]

Secretary.

Petition of the Concord, Maynard and Hudson Street Railway Company for approval of the terms and restrictions contained in votes of the towns of Maynard, Acton and Stow authorizing certain contributions to the cost of operation and fixed charges of the lines of said company within said towns.

It appearing that the town of Maynard on March 3, 1919, the town of Acton on March 3, 1919, and the town of Stow on June 21, 1919, have severally voted, upon the terms and subject to the restrictions set forth in said votes, attested copies of which have been filed with the Commission, to contribute to the cost of operation and fixed charges of the lines of the Concord, Maynard and Hudson Street Railway Company within said towns certain amounts, not exceeding one dollar per one thousand dollars of the preceding year's assessed valuation in each of said towns, —

It is

Ordered, That the approval of the Commission be hereby given, in accordance with the provisions of chapter 288 of the General Acts of 1918, to the terms and restrictions set forth in the votes of the towns of Maynard and Acton on March 3, 1919, and of the town of Stow on June 21, 1919, authorizing certain contributions

to the cost of operation and fixed charges on the lines of the Concord, Maynard and Hudson Street Railway Company within said towns.

Attest: ALLAN BROOKS,
JULY 16, 1919. [P. S. C. 2448] Assistant Secretary.

Petition of the selectmen of the town of Swansea for approval of the terms and restrictions contained in a vote of said town authorizing a certain contribution to the cost of operation and fixed charges of the line of the Swansea and Seekonk Street Railway Company.

It appearing that the town of Swansea on March 3, 1919, voted, upon the terms and subject to the restrictions set forth in said vote, an attested copy of which has been filed with the Commission, to contribute to the cost of operation and fixed charges of the line of the Swansea and Seekonk Street Railway Company within said town a certain amount of money, not exceeding one dollar per one thousand dollars of the preceding year's assessed valuation in said town, —

It is

Ordered, That the approval of the Commission be hereby given, in accordance with the provisions of chapter 288 of the General Acts of 1918, to the terms and restrictions set forth in the vote of the town of Swansea of March 3, 1919, authorizing a certain contribution to the cost of operation and fixed charges of the line of the Swansea and Seekonk Street Railway Company.

Attest: ANDREW A. HIGHLANDS,
MAY 6, 1919. [P. S. C. 2408] Secretary.

BRIDGES — RAILROAD AND RAILWAY.

Petition of the City Council of Boston, under section 23, Part I, of chapter 463 of the Acts of 1906, and acts in amendment thereof, relative to the alteration of a bridge by which Ashland street passes over the New York, New Haven and Hartford railroad in the West Roxbury district of the city of Boston.

It appearing, after public notice and hearing all parties interested, that Ashland street in the city of Boston is a public way which crosses the tracks of the New York, New Haven and Hartford railroad, by an overhead bridge, and that it is necessary for the security and convenience of the public that an alteration be made in said bridge which does not involve the abolition of a crossing at grade, for the purpose of rebuilding the bridge and making certain structural changes for the purpose of widening, strengthening and improving it, —

It is

Ordered, That an alteration in said bridge is necessary and that the manner and limits of such alteration are hereby prescribed as follows: —

1. The present superstructure, consisting of deck girder bridge, with a wooden floor, is to be entirely removed.
2. The present abutments are to remain unchanged, except so far as is necessary to adapt them to the new superstructure to be constructed thereon.
3. Upon the present abutments there shall be constructed a deck span steel plate girder bridge consisting of ten main girders, supporting a reinforced concrete floor system with roadway and sidewalks.
4. Provision shall be made under the sidewalks for pipes and conduits.
5. The present headroom of 18 feet, from the top of the rails of the railroad to the under side of the bridge, shall not be diminished. The clear roadway between curb lines of the bridge shall be 38 feet.
6. There shall be two sidewalks each with a width of 6 feet from curb to center of railing.
7. Provision shall be made for the laying of two car tracks upon the bridge.

8. The surface of the roadway shall be granite block.

9. The surface of the sidewalk shall be granolithic.

10. The approaches are to remain substantially unchanged, except that minor changes shall be made to adapt them to the new bridge, which is to be approximately at the same grade as the present bridge.

11. The work is to be executed substantially in accordance with a plan marked "Ashland Street Bridge, Proposed Rebuilding", dated October 22, 1919, and signed by T. F. Sullivan, Commissioner of Public Works, which is signed by and filed with the records of this Commission and is made a part of this decision.

FREDERICK J. MACLEOD,
EVERETT E. STONE,
HENRY C. ATTWILL,

NOVEMBER 20, 1919.

[P. S. C. 2435]

Commissioners.

Petition of the Municipal Council of the city of Lowell relative to the repair or reconstruction of bridge in Broadway street in said city, crossing a canal of the Proprietors of Locks and Canals on the Merrimack River, and carrying the tracks of the Bay State Street Railway Company.

Memorandum.

Broadway-street bridge in the city of Lowell crosses the canal of the Proprietors of Locks and Canals on the Merrimack River and carries the tracks of the Bay State Street Railway Company. The operation of the cars of this company over the bridge was discontinued, by direction of the Commission, owing to its unsafe condition for street railway traffic. At a hearing upon this petition for the repair or reconstruction of the bridge and a resumption of street railway traffic over the same, it developed that the bridge was originally built by the Proprietors of the Locks and Canals on the Merrimack River and that there was some question between the different parties in interest as to who should make and pay for the repairs or reconstruction of the bridge, especially that part of the structure that carried the tracks of the street railway company.

The Bay State street railway has, since the petition was brought, been taken over by a Board of Trustees, appointed under chapter 188 of the Special Acts of 1918, and the name of the company has been changed to the Eastern Massachusetts Street Railway Company. At a conference, subsequent to the

hearing, between the trustees of the company and the representatives of the Proprietors of Locks and Canals, the following agreement was executed:—

JUNE 10, 1919.

In consideration that the Locks & Canals shall presently entirely reconstruct the track zone of Broadway Bridge, over the Pawtucket Canal, along the lines discussed, the street railway company will co-operate in removing and replacing its rails.

Neither party waives any rights as to which party in the last instance shall bear the whole or any part of the cost of the above work.

EASTERN MASSACHUSETTS STREET RAILWAY
COMPANY,

HOMER LORING,
Chairman of Trustees.

PROPRIETORS OF THE LOCKS AND CANALS ON
MERRIMACK RIVER,

By ARTHUR G. SAFFORD,
Engineer.

As the above arrangement appears to be satisfactory to all parties, further action is unnecessary, and the petition is therefore placed on file.

By the Commission,

ALLAN BROOKS,
Assistant Secretary.

JULY 31, 1919. [P. S. C. 2412]

Petition of the selectmen of Northbridge relative to the repair and maintenance of overhead bridge at Linwood, in the town of Northbridge, by the New York, New Haven and Hartford Railroad Company and the Worcester Consolidated Street Railway Company; and the maintenance of adequate waiting room at Plummer's corner in said town, by the Worcester Consolidated Street Railway Company.

At the hearing upon this petition it developed that the bridge over the tracks of the New York, New Haven and Hartford railroad at Linwood, in the town of Northbridge, was constructed in 1899, in connection with the abolition of the grade crossing at that point. In 1904 the Uxbridge and Blackstone Street Railway Company, which has since been consolidated with the Worcester Consolidated Street Railway Company, was granted a location by the town of Northbridge for the construction of a single track

line over this bridge. The floor of the bridge originally consisted of two layers of planking, an underlayer three inches thick and a top layer two inches thick, with a single layer on the sidewalk, all laid upon wooden stringers. When the street railway company laid its tracks upon the bridge, it substituted steel stringers for wooden stringers on the portion of the bridge occupied by its tracks, and on these stringers cross ties and two layers of planking were laid. There was no record of any proceeding before the county commissioners when this alteration was made.

In November, 1918, it appeared that the floor of the portion of the bridge not used by the street railway was in need of repairs. The selectmen of the town at that time put in some new stringers and renewed both layers of planking. At the present time it appears that the floor of that part of the bridge occupied by the street railway tracks is in a dangerous condition and in need of repairs. The petitioners stated that they had notified the street railway company to make such repairs, but that it had refused to do so.

In the present petition, which is brought under chapter 552 of the Acts of 1908, the petitioners have requested the Commission to determine what repairs shall now be made to the bridge and which party shall make them. The petitioners also ask to be reimbursed by the railroad company for so much of the cost of repairs made in 1918 as represents the cost of laying the stringers and the underplanking. The petitioners contend that under section 38 of the general railroad law (Acts of 1906, chapter 463, Part I), as amended by chapter 156 of the Acts of 1912, the duty of maintaining the underplanking and stringers is now upon the railroad company. Counsel for the railroad company, however, contended that the obligations of the parties with respect to the maintenance of this bridge were fixed by the terms of the statute at the time the grade crossing was abolished. Under the law then in effect the duty of maintaining both layers of planking was placed upon the town, and it was contended that this obligation continued, as the statute of 1912 would not be retroactive.

Counsel for the railroad company stated that the company would be willing to reimburse the town for the cost of the stringers laid in 1918, but that for reasons already stated the company was under no obligation to reimburse the town for the cost of either layer of planking. While the street railway company should renew at its own expense any ties upon this bridge which may be found to be defective, it has declined to repair the

planking on the portion of the bridge under its tracks, on the ground that it is relieved from this obligation by section 79 of Part III, chapter 463 of the Acts of 1906, which reads in part as follows:—

A street railway company shall not be required to keep any portion of the surface material of streets, highways and bridges in repair, but it shall remain subject to all legal obligations imposed in original grants of locations.

As already stated, this petition is brought under chapter 552 of the Acts of 1908. Under that act, if the Public Service Commission decides, upon a proceeding properly brought, that a bridge at the crossing of a public way and a railroad is in need of repair, the commission is required to prescribe the manner in which and the limits within which the work shall be done, and to certify its decision to the parties. Under section 2 of that act the question as to the obligation of the respective parties to undertake the repairs so prescribed is left, in the absence of agreement, to the determination of the superior court. If the court in a proceeding hereafter brought by the town under that section should find that the apportionment of the repair and maintenance charges is governed by the statute of 1912, above referred to, and that the cost of laying the stringers and underplanking in connection with the repairs proposed should be borne by the railroad company, counsel for the company stated that he would recommend that the company reimburse the town for the cost of the repairs made in 1918 in so far as they represented work for which, under the finding of the court, the company would properly have been chargeable.

The Commission is, however, of the opinion that it is not the proper tribunal to determine which of the parties should make these repairs, as the only finding which the Commission, by the terms of the statute, is authorized to make is a determination of the manner in which and the limits within which the work shall be done. Such determination, based upon an examination of the bridge by the engineering department of the Commission, is made in the order hereto appended.

Concerning so much of the petition as relates to conditions at the waiting room at Plummer's Corner, the Commission has caused an investigation to be made of this station by its Inspection Department. At a conference with one of the selectmen of Northbridge and the officials of the street railway company, the

company has agreed that in the future the station will be properly heated and lighted, that the waiting room shall be equipped with comfortable settees and kept free from freight and express matter, that a suitable building to house freight and express matter shall be constructed near the waiting room, that the advertisements attached to the sides of the station shall be removed, and that the building shall be freshly painted. Since the hearing, these repairs have been made, and no further action by the Commission is necessary in relation to this matter.

With respect to so much of the petition as relates to the repair and maintenance of the bridge at the crossing of County road, a public way, over the tracks of the New York, New Haven and Hartford railroad at Linwood in the town of Northbridge, —

It is

Ordered, That the Commission hereby certify that the floor of said bridge upon the portion thereof which is occupied by the tracks of the Worcester Consolidated Street Railway Company is in need of immediate repair in the manner and within the limits hereinafter described: —

The two layers of planking forming the present floor of said portion of said bridge shall be entirely removed and replaced with two layers of planking of sound material of the original kind and thickness.

In connection with such repairs the Worcester Consolidated Street Railway Company shall renew such of its ties upon said bridge as may be found to be defective when the planking is removed, and the rails of said company shall be so laid upon said bridge that their tops will be flush with the top surface of the upper layer of planking.

By the Commission,

ANDREW A. HIGHLANDS,

JUNE 27, 1919. [P. S. C. 2339]

Secretary.

CAPITAL STOCK AND BONDS.

Petition of Bay State Street Railway Company for authority to reduce its capital stock.

It appearing, after notice and hearing and further investigation, that all property of every character, nature and description, and wherever situated, of the Bay State Street Railway Company (with the exception of certain items otherwise disposed of) has been sold, pursuant to a decree of foreclosure and sale duly entered on March 11, 1919, in the District Court of the United States for the District of Massachusetts, in the Consolidated Cause in Equity No. 834 entitled "The Archibald McNeil & Sons Company, Complainant, versus Bay State Street Railway Company, Defendant"; that said sale was duly confirmed by decree entered in said cause on April 26, 1919; that there are issued and outstanding two hundred and five thousand one hundred and seventy-two (205,172) shares of common stock of the company of one hundred (100) dollars par value per share, and forty thousand one hundred and forty-three (40,143) shares of preferred stock of the company of one hundred (100) dollars par value per share; that the stockholders of the company have at a meeting duly called for the purpose, by affirmative vote of the holders of two hundred and five thousand one hundred and seventy-two (205,172) shares of common stock and of forty thousand and thirty-six (40,036) shares of preferred stock, being all the common stock issued and outstanding and all the preferred stock issued and outstanding, except one hundred and seven (107) shares of preferred stock which were not represented at said meeting, voted to reduce the common stock of the Company from two hundred and five thousand one hundred and seventy-two (205,172) shares, of one hundred (100) dollars par value each, to two thousand fifty-one and seventy-two one hundredths (2,051.72) shares of one hundred (100) dollars par value each, and to reduce the preferred stock of the Company, the holders of which should assent to or adopt said vote on the basis of one (1) share of reduced preferred stock for each one hundred (100) shares of assenting preferred stock, without change of par value; that no money or other property of the Company

is to be paid or transferred to the stockholders of the Company in connection with the proposed reduction of common and preferred stock; and that under the circumstances above set forth the proposed reduction of common and preferred stock is consistent with the public interests and with the limitations imposed by general or special laws.

It is

Ordered, That the authorization of the Commission be hereby given to the reduction forthwith of the common stock of the Bay State Street Railway Company from two hundred and five thousand one hundred and seventy-two (205,172) shares of one hundred (100) dollars par value to two thousand fifty-one and seventy-two one hundredths (2,051.72) shares of one hundred (100) dollars par value; and that the authorization of the Commission be hereby given to the reduction forthwith of forty thousand and thirty-six (40,036) shares of preferred stock of said Company, the holders of which have assented to such reduction, to four hundred and thirty-six one hundredths (400.36) shares of preferred stock, without change of par value, and to the reduction of one hundred and seven (107) shares of preferred stock of said Company, from time to time as the holders thereof may assent to such reduction, on the basis of one (1) share of reduced preferred stock for each one hundred (100) shares of preferred stock, so assenting, without change of par value.

Attest: ANDREW A. HIGHLANDS,

NOVEMBER 7, 1919. [P. S. C. 2496]

Secretary.

Petition of the Berkshire Street Railway Company for approval of an issue of notes to the amount of \$74,205.

The Berkshire Street Railway Company owns and operates about 133 miles of track in Berkshire county. For the purpose of improving its service and reducing its cost of operation, the petitioner has contracted for seventeen (17) one-man cars at a total price of ninety-eight thousand nine hundred forty dollars (\$98,940), to be purchased from the Wason Manufacturing Company, a Massachusetts corporation having its place of business at Springfield, and has agreed to pay for these cars as follows: twenty-four thousand seven hundred thirty-five dollars (\$24,735) in cash on shipment and the remainder, the sum of seventy-four thousand two hundred five dollars (\$74,205), in twelve (12) notes of said Berkshire Street Railway Company, each for the base amount of one-twelfth ($\frac{1}{12}$) of said sum of seventy-four thousand two hundred five dollars (\$74,205), all dated the day of the aver-

age shipment of said cars and payable respectively each succeeding quarter on the first day of the months of February, May, August and November, until paid, the title of the cars to remain in said Wason Company until the purchase price has been paid in full.

The petitioner is without funds to pay the seventy-four thousand two hundred five dollars (\$74,205) remaining due the said Wason Company on account of the purchase price of the said cars. It is therefore necessary for it to borrow money on the security of said cars in order to retain the possession and ultimately acquire the title to them. The petitioner and the said Wason Company have accordingly agreed, subject to the approval of the Commission, that said petitioner will issue and deliver to the order of the said Wason Company, and the said company will accept, in lieu of the seventy-four thousand two hundred five dollars (\$74,205) in cash remaining due on account of the purchase price of said cars, twelve (12) lease warrants or notes duly executed by said Berkshire Street Railway Company.

It appearing, after notice and hearing and further investigation, that the issue by the petitioner of lease warrants or notes of the face value of seventy-four thousand two hundred five dollars (\$74,205) is reasonably necessary to apply towards the payment of the actual cost of the equipment referred to and is consistent with the public interest, —

It is

Ordered, That the approval of the Commission be hereby given to the issue by the Berkshire Street Railway Company of twelve (12) lease warrants or equipment notes, each note to be of an amount not exceeding one-twelfth ($\frac{1}{12}$) of the sum of seventy-four thousand two hundred five dollars (\$74,205) and to bear interest at the rate of six per cent (6%) per annum, all said notes being dated the day of the average shipment of the cars heretofore described, and payable respectively each succeeding quarter on the first day of the months of February, May, August and November of each year until paid, as an issue of notes reasonably necessary and of the amount required for the purpose of purchasing seventeen (17) one-man cars under a conditional sale agreement made in accordance with the memorandum accompanying the petition, thus providing means for funding the actual cost of new equipment, as set forth in the petition.

By the Commission,

ALLAN BROOKS,

Assistant Secretary.

JULY 31, 1919. [P. S. C. 2458]

Petition of the Boston Elevated Railway Company for authority to expend for other capital purposes the unexpended balance of proceeds of bonds issued under an order of the Commission dated November 9, 1915.

It appearing, after notice and hearing, investigation by the accounting and engineering departments of the Commission and full consideration, that the proposed application of proceeds of former issues of bonds is for lawful purposes and is consistent with the public interest, —

It is

Ordered, That the approval of the Commission be hereby given to the application by the Boston Elevated Railway Company of one hundred thirty-two thousand one hundred forty-seven dollars and sixty-five cents (\$132,147.65), realized as a part of the proceeds of bonds issued under an order of the Commission dated November 9, 1915 (P. S. C. 1143) and being the amount received by the company in excess of that required, as specified in said order, toward the cost of permanent additions to and improvements in the property of the petitioner, described in the schedules on file in this office.

Attest: ANDREW A. HIGHLANDS,
MARCH 3, 1919. [P. S. C. 2329] Secretary.

Petition of the Boston Elevated Railway Company for approval of issue of negotiable bonds.

It appearing, after notice and hearing, investigation by the accounting and engineering departments of the Commission and full consideration, that the proposed issue of negotiable coupon bonds is for lawful purposes and is consistent with the public interest,

It is

Ordered, That the approval of the Commission be hereby given to the issue by the Boston Elevated Railway Company of coupon or registered bonds to an amount not exceeding at par value three million dollars (\$3,000,000), said notes or bonds to be payable in not exceeding seven (7) years from the date thereof and to bear interest at a rate not to exceed seven per cent (7%) per annum, as an issue of notes or bonds reasonably necessary and of the amount required for the purpose of paying in part the

necessary cost of permanent additions to and improvements in the property of the petitioner, described in schedules on file in this office.

Any excess in the proceeds of this issue of bonds, over and above the amount above named, which may be realized from premiums, shall be held for such application to the cost of permanent additions to and improvements in the property of the petitioner as the Commission shall hereafter approve.

Attest: ANDREW A. HIGHLANDS,

MARCH 3, 1919. [P. S. C. 2328]

Secretary.

Petition of the Boston and Albany Railroad Company for approval of the application of unexpended proceeds of the bond issue of 1909.

On June 1, 1909, the Board of Railroad Commissioners approved an issue by the Boston and Albany Railroad Company of coupon or registered bonds, to an amount not exceeding, at par value, \$4,500,000, as an issue of bonds reasonably necessary and of the amount required for paying the necessary cost of permanent additions to and improvements upon the railroad property of the petitioner, made or to be made by The New York Central and Hudson River Railroad Company in accordance with the provisions of the lease between said companies and described in a schedule filed with the petition. The order of the Board contained the usual provision that any excess in the proceeds of this issue of bonds which should not be needed for the purposes thus stated should be applied to the payment of any excess in the cost of the proposed improvements above the estimated cost, or should be held for such application to the cost of permanent additions to and improvements upon the property of the company as the Board should thereafter approve.

Upon a supplemental petition filed March 7, 1913, the Board on June 23, 1913, approved the application of unexpended proceeds amounting to \$322,494.70 to certain additions and improvements already made and described in schedules filed with said supplemental petition, and also approved the application thereafter of further unexpended proceeds amounting to \$4,935.20 "to permanent additions and improvements to be approved by the Board." In a further supplemental petition dated November 15, 1915, the Boston and Albany Railroad

Company asked for approval of the application of this sum of \$4,935.20 toward the cost of the abolition of grade crossings in East Boston. Upon investigation, such expenditure has been approved by the accounting and engineering departments of the Commission.

It is therefore

Ordered, That the approval of the Commission be hereby given to the application by the Boston and Albany Railroad Company of proceeds to the amount of four thousand nine hundred thirty-five dollars and twenty cents (\$4,935.20), of the issue of bonds, amounting at par value to four million five hundred thousand dollars (\$4,500,000), which was authorized by the Board of Railroad Commissioners on June 1, 1909, towards the cost of additions and improvements to the property of said company made in connection with the abolition of grade crossings at East Boston.

Attest: ANDREW A. HIGHLANDS,

JANUARY 31, 1919. [R. R. C. 7332]

Secretary.

Petition of the Boston and Albany Railroad Company for approval of the application of unexpended proceeds of the bond issue of 1913.

On June 12, 1913, the Board of Railroad Commissioners approved an issue of coupon or registered bonds by the Boston and Albany Railroad Company, to an amount not exceeding, at par value, two million and fifteen thousand dollars (\$2,015,000), as an issue of bonds reasonably necessary and of the amount required for paying the necessary cost of permanent additions to and improvements upon the railroad property of the petitioner, made or to be made by The New York Central and Hudson River Railroad Company in accordance with the provisions of the lease between said companies and described in a schedule filed with the petition. The order of the board contained the usual provision that any excess in the proceeds of this issue of bonds which should not be used for the purposes thus stated should be applied to the payment of any excess in the cost of the proposed improvements above the estimated cost, or should be held for such application to the cost of permanent additions to and improvements upon the property of the company as the Board should thereafter approve.

From the sale of these bonds the company realized \$2,021,-024.85. Of this amount, \$1,623,304 was used for the purposes specified in the schedule filed with the original petition, and these expenditures were checked and approved in part by the engineer of the Board of Railroad Commissioners and in part by the accounting and engineering departments of this Commission. On December 22, 1915, a supplemental petition was filed with the Commission by the Boston and Albany Railroad Company, asking for approval of the application of the balance of the proceeds, amounting to \$397,720.85, to the cost of further additions and improvements specified in a schedule attached to said supplemental petition. After investigation, the accounting and engineering departments of the Commission approved these expenditures with the exception of an item amounting to \$1,938. The Boston and Albany Railroad Company thereupon filed an additional supplemental petition on May 14, 1918, asking for approval of the application of this sum of \$1,938 toward the cost of a new interlocking tower at Pittsfield, over and above expenditures for this tower approved in connection with the issue of bonds authorized by the Commission on July 27, 1917. Upon investigation, this expenditure of \$1,938 has been approved by the accounting and engineering departments.

It is therefore

Ordered, That the approval of the Commission be hereby given to the application by the Boston and Albany Railroad Company of proceeds to the amount of three hundred ninety-five thousand seven hundred eighty-two dollars and eighty-five cents (\$395,-782.85), of the issue of bonds, amounting at par value to two million and fifteen thousand dollars (\$2,015,000), which was authorized by the Board of Railroad Commissioners on June 12, 1913, to expenditures already made for permanent additions to and improvements upon the property of said company, as shown in the schedule attached to the supplemental petition dated November 15, 1915, and that the approval of the Commission be also given to the application of further proceeds of said issue of bonds, to the amount of one thousand nine hundred thirty-eight dollars (\$1,938), toward the cost of interlocking tower No. 57, located at Pittsfield.

Attest: ANDREW A. HIGHLANDS,

JANUARY 31, 1919. [R. R. C. 9394]

Secretary.

In the matter of the capitalization of the Eastern Massachusetts Street Railway Company under section four of chapter one hundred eighty-eight of the Special Acts of nineteen hundred and eighteen.

Section four of chapter one hundred eighty-eight of the Special Acts of nineteen hundred and eighteen is as follows: —

SECTION 4. The new company, for the purpose of paying for the railways, property and franchises of the company, may issue stock, bonds and other evidences of indebtedness in such amounts and proportions, with such par values and preferences, as may be approved by the directors and by the trustees. The entire capitalization of the new company, including stock, bonds and other evidences of indebtedness which may be issued to pay for, or which shall remain outstanding in respect of, the railways and property owned, leased or operated by the company which were included in the computation of investment value contained in the decision of the public service commission dated the thirty-first day of August, nineteen hundred and sixteen, shall not represent a capital bearing an annual interest and dividend charge (common dividends being computed at the rate of six per cent per annum) which will exceed six per cent upon the sum of forty million two hundred eighty-two thousand three hundred and forty dollars, plus such amounts as may be determined by the public service commission to have been additions to or improvements of the property of the company since the date as of which such computation was made: *provided*, that no such additions or improvements shall be included which were made with the proceeds of receiver's certificates or receiver's notes retired as provided in section eight thereof. The public service commission shall make such further adjustments of said sum as will represent present values on a six per cent basis of rentals payable on account of property of street railways leased by the company within the commonwealth and included in said computation. The public service commission shall also deduct from the said sum the value of any property sold or otherwise disposed of by the receiver before the organization of the new company at the value, if any, at which the same was included by the public service commission in said computation.

In pursuance of the provisions contained above, there have been filed with the Commission schedules of expenditures on account of additions and improvements to property, and the investigation by the engineering and accounting departments of the Commission of these schedules has now been completed. The property referred to therein has been inspected and the vouchers and contracts have been examined and checked in detail as submitted. In investigating these schedules, deduction has been

made of the value of any property sold or otherwise disposed of since November 1, 1914, the date as of which the computation of investment value contained in the decision of the Public Service Commission dated the 31st day of August, 1916, was made. The present values of the rentals payable on account of property of street railways leased by the Bay State Street Railway Company within the commonwealth and included in the computation contained in the decision of this Commission dated August 31, 1916, have been computed on a six per cent basis. Further schedules of expenditures are to be presented for approval after the property is transferred to the new company, and this order is without prejudice to the finding of such further additions or improvements as such schedules may justify.

It is therefore *ordered, found and determined* that the amount of the additions to or improvements of the property of the Bay State Street Railway Company since said November 1, 1914, after deducting the value of all property sold or otherwise disposed of since November 1, 1914, at the value, if any, at which the same was included by the Public Service Commission in said computation, is determined to be \$1,866,516.67, subject to the right of the company to submit further schedules of additional expenditures not considered in the above total. This sum includes the payments already made for the cars under the conditional sale agreement of August 29, 1917, which represent betterment, the balance of such cost being met by the equipment notes issued under said agreement which have been or are to be amortized out of operating income as provided for in the order of the Commission dated August 17, 1917 (5 P. S. C. Rep., p. 291), and accordingly are not considered a part of the capitalization.

It is further *ordered, found and determined* that the adjustment to be made to represent present value on a six per cent basis of rentals payable on account of property of street railways leased by the Bay State Street Railway Company within the commonwealth of Massachusetts and included in said computation, is \$965,744.67; that the said sum of \$965,744.67 is to be deducted in determining the amount of the capitalization (other than the securities of said leased railways) of the Eastern Massachusetts Street Railway Company which may be issued or remain outstanding under said section four, in respect of the property therein referred to; and that the total amount of such capitalization which may be so issued or remain outstanding under said section

four, in respect of the property therein referred to, is hereby fixed, subject to the action of the Commission upon the submission of further schedules of additional expenditures as aforesaid, at the sum of \$41,183,112, which sum is determined as follows: —

Computation of investment value as		
of November 1, 1914,	\$40,282,340	
Additions and improvements submitted to the Commission, minus the value of property sold or otherwise disposed of,	1,866,516 67	
	<hr/>	\$42,148,856 67
Adjustment to represent present values on six per cent basis of rentals payable on account of properties of street railways leased by the Bay State Street Railway Company within the Commonwealth of Massachusetts,		965,744 67
		<hr/>
Net amount as above,		\$41,183,112 00

These orders, findings and determinations are made upon the understanding that in so far as any additions or improvements included in the above total were made with the proceeds of receiver's certificates or receiver's notes, the amount of the same shall be deducted from the above total if such receiver's certificates or receiver's notes shall hereafter be retired as provided in section eight of the said chapter one hundred eighty-eight of the Special Acts of nineteen hundred and eighteen.

Attest: ANDREW A. HIGHLANDS,
MAY 20, 1919. [P. S. C. 2422] Secretary.

Petition of the Fore River Railroad Corporation for authority to issue original capital stock.

It appearing, after notice and hearing and further investigation, that an issue of capital stock to the amount and for the purposes hereinafter named is for a lawful purpose and is consistent with the public interest, —

It is

Ordered, That the approval of the Commission be hereby given to the issue by the Fore River Railroad Corporation of original shares of capital stock not exceeding fourteen hundred seventy (1,470) in number, amounting at par value to one hundred

forty-seven thousand dollars (\$147,000); the proceeds of fourteen hundred (1,400) of such shares to be applied toward the payment and capitalization of the necessary cost of the acquisition of the private railroad maintained and operated by the Fore River Shipbuilding Corporation, or its successors or assigns, between the line of the New York, New Haven and Hartford Railroad Company in that part of the town of Braintree known as East Braintree and the property of the Fore River Shipbuilding Corporation in the city of Quincy, together with certain additional tracks and other property used in connection therewith, all as inventoried in the valuation made by C. B. Breed, Consulting Engineer, dated April 7, 1919, and filed with the Commission; and the proceeds of the balance, seventy (70) shares, to be applied for the purposes of working capital.

Said shares are to be issued to the subscribers to the capital stock of the company, or their assigns, upon the full payment of the par value thereof in cash, no shares to be issued until the whole amount of the capital stock as above fixed has been actually paid in cash.

Attest: ANDREW A. HIGHLANDS,

APRIL 28, 1919. [P. S. C. 2387]

Secretary.

Petition of the Milford, Attleborough and Woonsocket Street Railway Company for approval of an agreement for an extension for a period of five years of the maturity of the issue of certain first-mortgage bonds of the petitioner at an increased rate of interest.

After consideration, it appearing that by orders dated respectively December 20, 1899, July 24, 1900, June 27, 1901, and March 5, 1912, the Board of Railroad Commissioners approved an issue by the Milford, Attleborough and Woonsocket Street Railway Company of not exceeding three hundred thousand dollars (\$300,000) face value, 20-year five per cent (5%) gold coupon bonds, secured by a mortgage on the property of said company; that the said bonds, to an aggregate principal amount of three hundred thousand dollars (\$300,000) having been issued accordingly, are now outstanding and are about to come due;

And it now appearing that, owing to existing financial conditions it is inexpedient, if not impossible, for the petitioner to issue and market new bonds or other securities at a reasonable rate of interest for the purpose of retiring or refunding said bonds,

and that it is necessary and advisable for the petitioner to procure an extension of the maturity of said bonds, and to increase the rate of interest on said bonds, as extended, in order to secure the consent of the holders of the bonds to such extension: —

It is

Ordered, That the approval of the Commission be hereby given to the terms and provisions of the proposed agreement, a copy of which is on file with this Commission, to be made between the Milford, Attleborough and Woonsocket Street Railway Company, the Old Colony Trust Company, trustee, and such of the holders of said issue of bonds of the Milford, Attleborough and Woonsocket Street Railway Company as become parties thereto, in the manner therein provided, whereby under certain terms and conditions the maturity of certain of said bonds is extended for a period of five years from October 1, 1919, and whereby the rate of interest on the bonds so extended is increased from five per cent (5%) to six per cent (6%) per annum, and the orders of the Board of Railroad Commissioners hereinbefore specified, made under dates of December 20, 1899, July 24, 1900, June 27, 1901, and March 5, 1912, are hereby supplemented and amended accordingly.

Attest: ANDREW A. HIGHLANDS,

SEPTEMBER 16, 1919.

[P. S. C. 2471]

Secretary.

Petition of the Norwood, Canton and Sharon Street Railway Company for approval of reduction in capital.

The Norwood, Canton and Sharon Street Railway Company was organized under general laws March 15, 1900, with locations in Norwood and Sharon, and capital stock fixed at \$125,000. Thirteen stockholders paid in \$62,500 on 1,250 shares, which were unissued in 1902, when the company petitioned the Railroad Commission for authority to reduce its capital stock from \$125,000 to \$85,000, which authority was granted by an order dated April 9, 1902, a further order being issued upon the same date approving the issue of \$85,000 in original stock as reasonably requisite for the purpose authorized. In 1914, the company petitioned this Commission for a further reduction of the amount of its capital stock from \$85,000 to \$62,500, the amount paid in on the original stock, no certificates of stock having been issued; and it appearing that the company had no outstanding notes or debts, except current obligations of small amount discharged

from week to week or from month to month, so that there were no creditors or other persons whose rights or interests might be prejudiced by the proposed reduction of capital stock, and that the property of the company represented an investment in excess of the aggregate par value of the proposed capitalization, the petition was granted July 22, 1914. Thereafter another petition was filed by the company, for authority to reduce its capital stock to \$32,500, and issue coupon or registered bonds to the amount of \$30,000 for the purpose of retiring capital stock to a like aggregate amount by exchanging the same at its par value, and this petition was granted in an order issued December 9, 1914.

Conditions led the owners of the property to a decision to abandon its operation. Thereupon they sold the entire stock and bonds to a single purchaser who began to take up the tracks of the street railway and to dispose of its property. Local sentiment in Sharon became so strongly favorable to the continued operation of that portion of the road located therein, that certain citizens purchased the stock and bonds of the company in order to operate the road in Sharon.

The petition asks that the bond issue of \$30,000 be retired, and that the reduction of the capital stock be from \$32,500 to \$12,000, and presents, as the basis of value for such capital, the following statement of costs to the present owners:—

Purchase of entire capital stock and bond issue, . . .	\$10,400 00
1,035 car ties at 45 cents,	465 75
Freight on same,	118 41
Mr. Frank E. Drew (legal expenses),	127 40
Blue Hill Street Railway Company, material,	84 81
Blue Hill Street Railway Company, labor,	414 96
Total,	<u>\$11,611 33</u>

It appearing, after notice and hearing and further investigation, that the petitioner has expended for the purchase and rehabilitation of the track and line of the Norwood, Canton and Sharon street railway in the town of Sharon an amount approximating the sum of \$12,000 and that expenditures in contemplation will require any balance of that amount and that the present value of the property is estimated at \$27,318, —

It is

Ordered, That authority be hereby given to the Norwood, Canton and Sharon Street Railway Company to retire and can-

cel mortgage bonds to the amount of thirty thousand dollars (\$30,000) now in its possession, issued under authority of an order of this Commission dated December 9, 1914, said retirement and cancellation of bonds being for a lawful purpose and consistent with the public interest.

And it is further

Ordered, That the approval of the Commission be hereby given to the reduction of the capital stock of the Norwood, Canton and Sharon Street Railway Company from thirty-two thousand five hundred dollars (\$32,500) to twelve thousand dollars (\$12,000) upon the retirement and cancellation of said mortgage bonds to the amount of thirty thousand dollars (\$30,000).

Attest: ALLAN BROOKS,
NOVEMBER 29, 1919. [P. S. C. 2475] *Assistant Secretary.*

Petition of the Springfield Street Railway Company for approval of an issue of notes to the amount of \$48,993.40.

The Springfield Street Railway Company owns and operates about 176 miles of track in Hampden and Hampshire counties. For the purpose of improving its service and reducing its cost of operation, the petitioner has contracted for ten one-man cars at a total price of \$63,493.40, to be purchased from the Wason Manufacturing Company, a Massachusetts corporation having its place of business at Springfield, and has agreed to pay for these cars in the following manner: \$14,500 in cash on shipment and the remainder, the sum of \$48,993.40, in thirty-six notes of said Springfield Street Railway Company, each for the base amount of one thirty-sixth of said sum of \$48,993.40, all dated the day of the average shipment of said cars and payable respectively each succeeding month until paid, the title of the cars to remain in said Wason Company until the purchase price has been paid in full.

The petitioner states that it is without funds to pay the \$48,993.40 remaining due on account of the purchase price of said cars, and it appears necessary, therefore, for it to borrow money on the security of said cars in order to retain the possession and ultimately acquire the title of same. The petitioner and the said Wason Company have accordingly agreed, subject to the approval of the Commission, that said petitioner will issue and deliver to the order of the said Wason Company,

and the said company will accept in lieu of the \$48,993.40 in cash remaining due on account of the purchase price of said cars, thirty-six lease warrants or notes duly executed by said Springfield Street Railway Company.

It appearing, after investigation, that the issue by the petitioner of lease warrants or notes of the face value of \$48,993.40 is reasonably necessary to apply towards the payment of the actual cost of the equipment referred to and is consistent with the public interest, —

It is

Ordered, That the approval of the Commission be hereby given to the issue by the Springfield Street Railway Company of thirty-six (36) lease warrants or equipment notes, each note to be for the base amount of one thirty-sixth ($\frac{1}{36}$) of the sum of forty-eight thousand nine hundred ninety-three dollars and forty cents (\$48,993.40), which amount represents the balance due on account of the purchase price of certain cars herein specified, plus interest at the rate of six per cent (6%) per annum, all of said notes being dated the day of the average shipment of the cars heretofore described and payable respectively each succeeding month until paid, as an issue of notes reasonably necessary and of the amount required for the purpose of purchasing ten (10) one-man cars under a conditional sale agreement, a copy of which is attached to the petition, thus providing means for funding the actual cost of new equipment as set forth in the petition.

Attest:

ANDREW A. HIGHLANDS,

SEPTEMBER 24, 1919.

[P. S. C. 2364]

Secretary.

Petition of the Webster and Dudley Street Railway Company for approval of an issue of bonds.

This is a petition of the Webster and Dudley Street Railway Company, representing that it desires to issue \$30,000 par value of its first mortgage, twenty-year 5 per cent gold bonds, for the purpose of refunding its issue of \$30,000, 5 per cent first mortgage, twenty-year gold bonds, dated November 1, 1899, and maturing November 1, 1919.

It appearing, after due notice to all parties interested, and a hearing, and upon such further investigation as was deemed desirable, that an issue of coupon bonds has been duly authorized by

vote of the stockholders and directors; that the proposed issue of bonds is for a lawful purpose, is consistent with the public interest and is reasonably requisite for the purpose for which the issue is authorized, viz.: the exchange of the same for the \$30,000, face value, of bonds of the company now outstanding, —

It is

Ordered, That the approval of the Commission be hereby given to the issue by the Webster and Dudley Street Railway Company of coupon mortgage bonds to an amount not exceeding at par value thirty thousand dollars (\$30,000), to be dated November 1, 1919, to be payable twenty (20) years from the date thereof, and to bear interest at the rate of five per cent (5%) per annum, said bonds to be used for the purpose of refunding the present issue of thirty thousand dollars (\$30,000) face value of bonds of said company now outstanding and maturing November 1, 1919, by exchange for the same dollar for dollar, face value.

Attest: ANDREW A. HIGHLANDS,

NOVEMBER 12, 1919.

[P. S. C. 2491]

Secretary.

Petition of the West End Street Railway Company for approval of an issue of bonds to the amount of \$375,000.

It appears that on January 22, 1918, the Commission authorized the issue of bonds amounting to \$375,000, the proceeds to be applied toward the repayment to the Boston Elevated Railway Company of the cost of fifty new cars and their equipment, purchased for account of the West End Street Railway Company. These bonds were issued for a period of one year, and became due February 1, 1919, at which time a note for three hundred and seventy-five thousand dollars (\$375,000) was issued to pay said bonds. The note was dated February 1, 1919, and was issued for one year. It therefore becomes due February 1, 1920, at which time the company desires to issue bonds, the proceeds to be used to retire said note, thus in effect refunding the former issue.

It appearing, after notice and hearing and further investigation, that the proposed issue of bonds is for a lawful purpose, and is consistent with the public interest, —

It is

Ordered, That the approval of the Commission be hereby given to the issue by the West End Street Railway Company of coupon or registered bonds to an amount not exceeding, at par value,

three hundred seventy-five thousand dollars (\$375,000), said bonds to be payable not exceeding thirty (30) years from date thereof and to bear interest at a rate not to exceed seven per cent (7%) per annum, as an issue of bonds reasonably necessary and of the amount required for the purpose of paying and funding a note for three hundred seventy-five thousand dollars (\$375,000), becoming due February 1, 1920.

Any excess in the proceeds of this issue of bonds over the amount above named, which may be realized from premiums, shall be held for such application to the cost of permanent additions to and improvements in the property of the petitioner as the Commission shall hereafter approve.

Attest: ANDREW A. HIGHLANDS,
NOVEMBER 13, 1919. [P. S. C. 2487] Secretary.

*Petition of the West End Street Railway Company for approval
of issue of bonds.*

It appearing, after notice and hearing and further investigation, that the proposed issue of bonds is for a lawful purpose and is consistent with the public interest, —

It is

Ordered, That the approval of the Commission be hereby given to the issue by the West End Street Railway Company of coupon or registered bonds to an amount not exceeding, at par value, one million five hundred eighty-one thousand dollars (\$1,581,000), said bonds to be payable not exceeding thirty (30) years from date thereof and to bear interest at a rate not to exceed seven per cent (7%) per annum, as an issue of bonds reasonably necessary and of the amount required for the purpose of refunding outstanding bonds of the West End Street Railway Company to the amount of one million five hundred eighty-one thousand dollars (\$1,581,000) which become due August 1, 1919.

Any excess in the proceeds of this issue of bonds over the amount above named, which may be realized from premiums, shall be held for such application to the cost of permanent additions to and improvements in the property of the petitioner as the Commission shall hereafter approve.

Attest: ANDREW A. HIGHLANDS,
JUNE 18, 1919. [P. S. C. 2429] Secretary.

Petition of the Worcester Consolidated Street Railway Company for approval of an agreement for an extension for a period of two years of the maturity of the issue of certain first-mortgage bonds of the Worcester and Clinton Street Railway Company at an increased rate of interest.

After consideration, it appearing that on December 29, 1898, the Board of Railroad Commissioners approved an issue by the Worcester and Clinton Street Railway Company of not exceeding one hundred fifteen thousand dollars (\$115,000) face value, 20-year five per cent (5%) gold coupon bonds secured by a mortgage on the property of said company; the said bonds, to an aggregate principal amount of one hundred fifteen thousand dollars (\$115,000) having been issued accordingly, which are now outstanding and matured on January 1, 1919;

That on October 8, 1900, said Board of Railroad Commissioners approved the terms of a contract of purchase and sale under which the property and franchises of the Worcester and Clinton Street Railway Company were conveyed to the Leominster and Clinton Street Railway Company, and under and by which the latter company assumed and agreed to pay all the outstanding debts and obligations of the Worcester and Clinton Street Railway Company, including the bonds above described;

That on February 20, 1901, said Board of Railroad Commissioners approved the terms of a contract of purchase and sale under which the property and franchises of the Leominster and Clinton Street Railway Company were conveyed to the Worcester Consolidated Street Railway Company, and under and by which the latter company assumed and agreed to pay all the outstanding debts and obligations of the Leominster and Clinton Street Railway Company, including the bonds above described;

And it now appearing that owing to existing financial conditions it is inexpedient, if not impossible, for the petitioner to issue and market new bonds or other securities at a reasonable rate of interest for the purpose of retiring or refunding said bonds and that it is necessary and advisable for the petitioner to procure an extension of the maturity of said bonds and to increase the rate of interest on said bonds, as extended, in order to secure the consent of the holders of the bonds to such extension;

It is

Ordered, That the approval of the Commission be hereby given to the terms and provisions of the proposed agreement, a copy of

which is on file with this Commission, to be made between the Worcester Consolidated Street Railway Company, the American Trust Company, trustee, and such of the holders of said issue of bonds of the Worcester and Clinton Street Railway Company as become parties thereto, in the manner therein provided, whereby under certain terms and conditions the maturity of certain of said bonds is extended for a period of two years from January 1, 1919, and whereby the rate of interest on the bonds so extended is increased from five per cent (5%) to seven per cent (7%) per annum, and the orders of the Board of Railroad Commissioners hereinbefore specified, made under dates of December 29, 1898, October 8, 1900, and February 20, 1901, are hereby supplemented and amended accordingly.

Attest: ANDREW A. HIGHLANDS,

APRIL 10, 1919. [P. S. C. 2392]

Secretary.

*Petition of the Worcester and Webster Street Railway Company
for approval of an issue of refunding bonds to the amount of
\$150,000.*

This is a petition of the Worcester and Webster Street Railway Company for approval of an issue of mortgage bonds to an amount not exceeding one hundred fifty thousand dollars (\$150,000), payable twenty (20) years from the date thereof and to bear interest at a rate not exceeding five per cent (5%) per annum, the proceeds to be used for the purpose of providing payment for a like amount of bonds of the petitioner which become due December 1, 1919.

It appearing after notice and hearing and further investigation, that the proposed issue of mortgage bonds is for a lawful purpose and is consistent with the public interest, —

It is

Ordered, That the approval of the Commission be hereby given to the issue by the Worcester and Webster Street Railway Company of mortgage bonds to an amount not exceeding at par value one hundred fifty thousand dollars (\$150,000), said bonds to be payable not exceeding twenty (20) years from date thereof and to bear interest at a rate not exceeding five per cent (5%) per annum, as an issue of bonds reasonably necessary and of an amount required for the purpose of providing payment for a like amount of bonds of the petitioner which become due December 1, 1919.

Any excess in the proceeds of this issue of bonds over the amount above named, which may be realized from premiums, shall be held for such application to the cost of permanent additions to and improvements upon the property of the petitioner as the Commission shall hereafter approve.

Attest: ANDREW A. HIGHLANDS,
NOVEMBER 28, 1919. [P. S. C. 2521] *Secretary.*

CAR HEATING.

Petition of the Boston and Maine Railroad for exemption from the law requiring the heating of cars by steam, with respect to certain trains on its railroad.

After consideration, —

It is

Ordered, That the Boston and Maine Railroad be hereby exempted until the first day of October, 1920, from the law requiring passenger cars to be heated by steam from the locomotive, in respect to cars on certain mixed trains on the Merrimac Branch of the Portland division, the Ashburnham Branch of the Fitchburg division, the Acton Branch of the Worcester, Nashua and Portland division, and the Easthampton Branch of the Connecticut and Passumpsic division, all of said cars to be heated by the Baker heater, heretofore approved by the Board of Railroad Commissioners.

Attest: ANDREW A. HIGHLANDS,

NOVEMBER 3, 1919. [P. S. C. 2507]

Secretary.

Petition of the New York, New Haven and Hartford Railroad Company for exemption from the law as to heating cars by steam.

After consideration, —

It is

Ordered, That the New York, New Haven and Hartford Railroad Company be hereby exempted, until the first day of October, 1920, from the law requiring passenger cars to be heated by steam from the locomotive, in respect to cars on certain mixed trains on the New Haven, New London, Boston, and Highland divisions of its railroad, and upon trains 900 and 901 of the Central New England Railway, specified in the petition, in which freight cars are placed between the locomotive and passenger cars, said passenger cars to be heated by the Baker heater, heretofore approved by the Board of Railroad Commissioners.

Attest: ANDREW A. HIGHLANDS,

SEPTEMBER 29, 1919. [P. S. C. 2275]

Secretary.

Further petition of the New York, New Haven and Hartford Railroad Company for exemption from the law as to heating cars by steam.

After consideration, —

It is

Ordered, That the New York, New Haven and Hartford Railroad Company be hereby exempted, until the first day of October, 1920, from the law requiring passenger cars to be heated by steam from the locomotive, in respect to cars on mixed trains 6002 and 6011, operating between Fitchburg and Worcester, in which freight cars are placed between the locomotive and passenger cars, said passenger cars to be heated by the Baker heater, heretofore approved by the board of railroad commissioners.

Attest: ANDREW A. HIGHLANDS,

NOVEMBER 29, 1919. [P. S. C. 2275]

Secretary.

CAR CONSTRUCTION.

Petition of the Connecticut Valley Street Railway Company for approval of use of one-man cars upon its railway.

In a report dated October 10, 1918, the Commission declined to approve the use of one-man cars upon certain lines of the Connecticut Valley Street Railway Company, for the reason that the company contemplated the operation of ordinary cars then in use on those lines without remodelling the cars or installing the safety device features approved by the Commission in similar cases. The Commission at that time, however, indicated its readiness to approve the use of new one-man cars of modern design or of old cars properly reconstructed for such use.

The company has now advised the Commission that it proposes to rebuild some of its cars, making such changes as will adapt them for use as one-man cars and installing such safety appliances as are now in general use and which have already been approved by the Commission in the operation of this type of car by other companies. The formal approval of the Commission of these rebuilt cars for use upon the Millers Falls division and the Conway Street line in the towns of Montague and Greenfield, respectively, is therefore desired. After consideration, —

It is

Ordered, That the approval of the Commission be hereby given to the operation by the Connecticut Valley Street Railway Company of one-man safety cars on its Millers Falls division and Conway Street line, as described in the petition, each car to be equipped with the safety devices heretofore approved by the Commission for use on cars of the Concord, Maynard and Hudson Street Railway Company: *provided, however,* that said Connecticut Valley Street Railway Company shall adopt the following rules and operate said safety cars in accordance therewith: —

1. When a car is running the operator shall transact no business relative to the collection of fares or the issue of transfers.

2. If the operator has occasion to leave his car he shall remove and retain in his possession the reverse handle of the controller.

Attest: ANDREW A. HIGHLANDS,

SEPTEMBER 10, 1919. [P. S. C. 1863]

Secretary.

*Petition of the Berkshire Street Railway Company for approval
and operation of seventeen safety cars.*

After consideration, —

It is

Ordered, That the approval of the Commission be hereby given to the purchase and operation by the Berkshire Street Railway Company of seventeen (17) safety cars, as described in specifications on file with the petition, each car to be equipped with the safety devices heretofore approved by the Commission: *provided, however*, that said Berkshire Street Railway Company shall adopt the following rules and operate said safety cars in accordance therewith: —

1. When a car is running the operator shall transact no business relative to the collection of fares or the issue of transfers.

2. If the operator has occasion to leave his car he shall remove and retain in his possession the reverse handle of the controller.

Attest: ANDREW A. HIGHLANDS,

JUNE 28, 1919. [P. S. C. 2428]

Secretary.

During the year other orders approving types of construction and operation of safety cars have been issued, as follows: —

Interstate Consolidated street railway, July 8, 1919 — safety cars shown on plan marked “Osgood Bradley Car Co., Worcester, Mass., 18' 0" Safety Motor Car, General Arrangement”, numbered 40584. [P. S. C. 2437]

Interstate Consolidated street railway, July 8, 1919 — safety cars shown on plan marked “American Car Company, St. Louis, Drawing of Floor Plan and Elevation, One Man Double End Safety Car”, numbered 6698. [P. S. C. 2437]

Medway and Dedham street railway, November 3, 1919 — one-man safety cars, built by Osgood Bradley Car Company. [P. S. C. 2497]

Medway and Dedham street railway, November 4, 1919 — one-man safety cars, built by J. G. Brill Company. [P. S. C. 2497]

Milford, Attleborough and Woonsocket street railway, June 28, 1919 — two converted safety cars to be remodelled and equipped with safety devices. [P. S. C. 2441]

Milford, Attleborough and Woonsocket street railway, July 8, 1919 — safety cars shown on plan marked "Osgood Bradley Car Company, Worcester, Mass., 18' 0" Safety Motor Car, General Arrangement", numbered 40584. [P. S. C. 2437]

Milford, Attleborough and Woonsocket street railway, July 8, 1919 — safety cars shown on plan marked "American Car Company, St. Louis, Drawing of Floor Plan and Elevation, One Man Double End Safety Car", numbered 6698. [P. S. C. 2437]

Springfield street railway, July 8, 1919 — safety cars shown on plan marked "Osgood Bradley Car Co., Worcester, Mass., 18' 0" Safety Motor Car General Arrangement", numbered 40584. [P. S. C. 2437]

Springfield street railway, July 8, 1919 — safety cars shown on plan marked "American Car Company, St. Louis, Drawing of Floor Plan and Elevation, One Man Double End Safety Car", numbered 6698. [P. S. C. 2437]

Worcester Consolidated street railway, July 8, 1919 — safety cars shown upon plan marked "Osgood Bradley Car Co., Worcester, Mass., 18' 0" Safety Motor Car, General Arrangement", numbered 40584. [P. S. C. 2437]

Worcester Consolidated street railway, July 8, 1919 — safety cars shown upon plan marked "American Car Company, St. Louis, Drawing of Floor Plan and Elevation, One Man Double End Safety Car", numbered 6698.

CROSSINGS, RAILROAD OR RAILWAY.

RAILROAD AND RAILWAY CROSSINGS.

Petition of the selectmen of the town of Watertown for approval of the crossing of the extension of Nichols avenue over the tracks of the Watertown branch of the Fitchburg railroad (Boston and Maine Railroad, lessee) at grade in that town.

Upon this petition a hearing was held. It developed that there is now pending before the county commissioners of the county of Middlesex a petition brought by the selectmen of the town of Watertown, for the relocation and widening of Arlington street, which, if granted, would obviate the necessity of establishing the additional crossing at grade, as petitioned for. The general policy of the Commonwealth and of this Commission is against the establishment of additional crossings of railroads and highways at grade, except under unusual circumstances and conditions.

In view of these facts, — it is

Ordered, That the petition be dismissed without prejudice.

By the Commission,

ALLAN BROOKS,

FEBRUARY 4, 1919. [P. S. C. 2272]

Assistant Secretary.

SAFEGUARDS AT CROSSINGS.

Petition of the selectmen of Charlemont for release from the requirements of chapter 246 of the General Acts of 1917 relative to the installation of warning signs at certain grade crossings of the Boston and Maine railroad in that town.

At a hearing upon this petition no one appeared representing the town, but a representative of the Boston and Maine Railroad appeared and submitted blue prints showing the location

of the railroad, the highway and the crossings. As there is no designated name for these crossings either in the petition or on the blue prints submitted by the railroad, the Commission has designated them by the railroad survey stations of the Fitchburg division of the Boston and Maine railroad as shown upon the blue prints which are filed with the case.

At the crossing near railroad station 6866+810 the situation is as follows: The highway leading over the crossing runs close to and parallel with the railroad on the northerly side thereof; thence turns southerly and crosses the tracks of the railroad at grade; thence over land bounded by the Deerfield river and the railroad, but the river at this point is some distance from the crossing. There is also shown on the plan another way leading directly over the crossing from the north. There is ample opportunity on either side of the crossing to erect warning signs as required by the act under which this petition is brought and there would seem to the Commission no good reason for relieving the town from its requirements. So much of the petition as relates to this crossing is therefore dismissed.

At the crossing near railroad station 6628+475 the situation is somewhat different. The main highway at this place runs close to and parallel with the railroad on the southerly side, and the Deerfield river runs parallel with the railroad on the northerly side. The crossing in question is formed by a public way leading from the main highway above referred to across the railroad northerly to and across the Deerfield river, where in times of low water it is used as a fordway. The point where it leaves the main highway is about 50 feet from the track of the company and the point where it intersects the river is about 100 feet beyond, so that vehicles using this crossing must of necessity proceed at a slow rate of speed. In view of these conditions the Commission is of the opinion that the erection at this crossing of the warning signs prescribed by section 1 of chapter 246 of the Acts of 1917 is unnecessary.

After consideration, —

It is

Ordered, That the Commission hereby release the town of Charlemont from the erection, at the crossing of the Fitchburg division of the Boston and Maine railroad at survey station 6628+475 in said town, of the warning signs provided for by section 1 of chapter 246 of the General Acts of 1917, and that so much of the petition as requests release from the require-

ments of law with respect to the erection of warning signs at the railroad crossing in said town at survey station 6866+810 be dismissed.

Attest: ALLAN BROOKS,
FEBRUARY 3, 1919. [P. S. C. 2309] Assistant Secretary.

Petition of the City Council of Peabody for the installation of signals at grade crossings of the Boston and Maine Railroad at Summit, Lake and Winona streets in Peabody.

At the hearing upon this petition it developed that the crossings at which additional protection is desired are now protected by electric bells. These bells give an audible warning to persons travelling on the highway and thus afford a certain amount of protection, especially to pedestrians and travelers in horse-drawn vehicles. Signals of this character are, however, of little practical value for automobile travel, as the noise of the automobile engine drowns the sound of the warning bells, especially if the vehicle is of the enclosed-body type. As automobiles have in large measure supplanted horse-drawn vehicles for highway travel, an audible signal alone can, in general, no longer be regarded as a suitable means of protection at railroad crossings where there is any substantial amount of vehicular traffic.

In order to meet these conditions, the railroad companies have developed and installed at certain points a type of signal known as the automatic flagman, which is equipped with electric bells and also furnishes a visible signal by the flashing of a row of red lights which are alternately lighted and extinguished. Recently, improvements have been made in that device by the substitution of larger bells and lights, including what are termed daylight signal lights, and by the addition of an arm bearing a red circular disc, marked "STOP", which swings with a pendulum motion when a train approaches a crossing.

This type of signal, which is known as the "Improved Audible-Visible Signal", has been installed by the Boston and Maine Railroad at certain points on its lines in Maine and New Hampshire, where it has apparently demonstrated its superiority over other forms of mechanical signals heretofore in use. As it seems desirable that an opportunity should be afforded for a practical test in this state of the efficiency of these signals in actual operation, and as the evidence in this case has disclosed the need of additional protection at the crossings in question, —

It is

Ordered, That the Boston and Maine Railroad be hereby required to install and maintain at each of the crossings of its railroad with the highways known as Summit, Lake and Winona streets in the city of Peabody a warning signal of the type known as the "Improved Audible-Visible Signal", which is more fully described in the foregoing report.

By the Commission,

ANDREW A. HIGHLANDS,

NOVEMBER 26, 1919.

[P. S. C. 2492]

Secretary.

Modification of order of the Commission relative to protection at the grade crossing of the Boston and Maine railroad at Lexington street in Waltham.

The Middlesex and Boston Street Railway Company proposes to operate one-man cars upon certain lines of its railway, beginning April 13, 1919, under the authority granted by the Commission in its orders dated February 28, 1918, and February 5, 1919, and in accordance with the rules and regulations specified therein. The street railway line between Lexington and Central square, Waltham, over which it is proposed to operate this type of car, crosses the Central Massachusetts branch of the Boston and Maine railroad at Lexington street in the city of Waltham at grade. As the crossing is protected by gates, the street railway company, under an order of the Commission dated December 16, 1918, was relieved of the duty of maintaining a special crossing tender at this crossing and certain special requirements were made for the protection of cars passing over it which appear to be impracticable in the operation of one-man cars.

After consideration, —

It is

Ordered, That the order of the Commission of December 16, 1918, authorizing the discontinuance of the services of a special crossing tender by the Middlesex and Boston Street Railway Company at the Lexington street crossing of the Central Massachusetts branch of the Boston and Maine railroad in the city of Waltham, and requiring each car to come to a stop within one hundred feet of the railroad track and then proceed over

the crossing at the direction of the conductor of the car, be hereby modified with respect to the operation of one-man cars over said crossing, as follows: —

The motorman shall bring the car to a stop within one hundred feet of the railroad crossing and again within twenty-five feet of the crossing and shall then set the hand brake. Before proceeding over the crossing he shall leave the car, removing and retaining in his possession the reverse handle of the controller, and go forward to a point upon the railroad track and carefully ascertain whether any engine, train or car is approaching or is within sight or sound of the crossing. Having assured himself that the way is safe, he shall immediately return to the car and proceed over the crossing.

Attest: ANDREW A. HIGHLANDS,
APRIL 10, 1919. [P. S. C. 2288] Secretary.

Petition of the selectmen of the town of Acton and others for extension of period of protection furnished at the grade crossing of the Fitchburg division of the Boston and Maine railroad near the West Acton station in said town.

The crossing in question is located on the state highway from Boston to Ayer via Boxborough and Harvard and is now protected by gates between the hours of 6 A.M. and 8.50 P.M. The petitioners ask to have the protection made continuous. It appeared at the hearing that the main state highway leading from Boston to Ayer, via Littleton, and extending through another part of the town of Acton is being repaired, travel meanwhile being largely diverted over the highway and crossing under consideration. A record of the travel at this crossing on both the highway and railroad was submitted and it was agreed by the company that continuous protection would be furnished at the crossing temporarily during the period covering the diversion of traffic and that when the repairs on the highway were completed, the question of the protection being made permanent would be taken up with the selectmen of the town, with the understanding that if the parties in interest were unable to reach a satisfactory adjustment, the matter should again be brought to the attention of the Commission.

Further action on this petition appearing unnecessary at the present time, the case is placed on file.

Attest: ANDREW A. HIGHLANDS,
JULY 21, 1919. [P. S. C. 2440] Secretary.

Petition of City Council of Peabody for the stationing of flagmen at the grade crossings of the Newburyport turnpike and the Boston and Maine railroad in the city of Peabody.

This is a petition of the city council of Peabody requesting the Public Service Commission to direct the Boston and Maine Railroad to station flagmen at the two railroad crossings, located about 1,000 feet apart, which are formed by the intersections of the Newburyport turnpike with the Salem branch and the Newburyport branch of the Boston and Maine railroad in West Peabody.

Pursuant to an order of the Board of Railroad Commissioners, dated December 2, 1907, the Boston and Maine Railroad installed automatic crossing alarm bells at these crossings. Upon petition of the selectmen of Peabody for additional protection, the Public Service Commission, on April 27, 1914, ordered the railroad company to install visual signals to operate in conjunction with the electric bells already provided at these crossings. The form of signal provided by the company in compliance with that order is known as the Brach automatic flagman, which operates while the bell is ringing. It consists of an arm projecting from the bell post at right angles to the street, about 18 feet above the ground. On top of this arm is a sign bearing the word "DANGER" in white letters on a black background. Inserted in each face of the arm are six small electric lamps behind red lenses and protected by hoods to make them visible by day, similar to the signals used by street railways. These lamps are arranged in the form of a crescent and are alternately lighted and extinguished while the train is approaching, thus giving the appearance of a red lantern being swung across the street.

Railroad companies are required, under suitable penalties, to report to the Commission all accidents on their roads resulting in loss of life or serious personal injury. From the date of the installation of these automatic flagmen until April 22 of this year, the Commission received no report of any accident at these crossings and it appeared that the device was proving an effective means of protection to highway travel. That period of five years' immunity from accident at these crossings has, however, been followed by a five months' period during which there have been, exclusive of two accidents involving property damage only, five serious accidents which have resulted in the death of five persons and in personal injuries to thirteen others.

These accidents were all due to the collision of automobiles with trains operated over these crossings, and in every case but one the automobiles ran into trains which were already passing over or standing at the crossings. Of the five fatalities, three occurred in an accident at the crossing on the Newburyport branch on April 22, 1919, and two in an accident at the crossing on the Salem branch on August 9, 1919. In the inquest held before the District Court of Peabody upon the accident of April 22, the court found that the chauffeur of the automobile did not use that degree of care which reason and precaution demand of automobile drivers at railway crossings, and that the deaths of the three passengers in the automobile were due to the chauffeur's recklessness. No report of the inquest on the fatalities of August 9 has yet been filed with the Commission.

In view of this tragic record and the recent investigation and report of these accidents by the Grand Jury of Essex County, it becomes imperative not only to determine whether existing means of protection are adequate and what further measures may properly be taken to safeguard the traveling public at these crossings, but also to consider briefly some aspects of the general grade crossing problem in this commonwealth.

When steam railroads were originally constructed, they were for the most part laid out across the highways at grade, either because the danger incident to grade crossings was not then realized or because a general requirement of grade separation would have retarded the construction of lines, which were considered vital to the commercial growth and prosperity of the various cities and towns of the commonwealth. In course of time, however, the increase in the number of trains and in the volume of highway travel led to a corresponding increase in the number of grade crossing accidents, until finally the grade crossing evil became so pronounced that a special commission was created in 1888 and directed to report to the General Court as to the best method of procuring the abolition of existing grade crossings. The report of that commission led to the enactment of chapter 428 of the Acts of 1890, which has since been incorporated, with a few minor amendments, in our general railroad law. Under that statute, 502 grade crossings, out of 2,267 existing in 1889, have been abolished, at a total cost of approximately \$42,000,000, of which the Commonwealth has contributed over \$10,000,000 and the cities and towns over \$5,000,000. With the possible exception of the state of Con-

necicut, Massachusetts, both in the number of crossings eliminated and in the amount expended, has done relatively much more than any other state in the Union; but there are still 1,765 railroad grade crossings in this state, out of upwards of 200,000 in the United States.

The immediate abolition of all these crossings would require expenditures of a staggering amount, but it is hoped that the program of gradual abolition, which has been halted as a result of the war, may soon be resumed. The abolition of grade crossings is the only sure method of avoiding grade crossing fatalities, for as long as such crossings exist, the possibility of a serious or fatal accident is always present, no matter what means of protection are employed. The abolition of the crossings involved in this proceeding could, owing to favorable topographical conditions, be effected at comparatively small expense, and should, in our judgment, be undertaken at once. The Commission has no power of initiative in this matter, but strongly recommends that proceedings be instituted by the railroad company or by the local authorities, with a view to ending, in the only effective way, the possibility of further fatal accidents at these crossings. Pending such possible future elimination, every reasonable precaution should be taken to safeguard highway travel and such means of grade crossing protection should be employed as will reduce the danger to a minimum.

In this connection, it is important to keep in mind that it is not at present the law or policy of Massachusetts to require the protection of all railroad grade crossings. The Commission, however, is empowered in its discretion, after notice and public hearing with respect to any specific crossing, to require the railroad company to furnish protection, by means of gates, flagmen or electric signals, where such action is required for the better security of life or the convenience of public travel.

In grade crossing protection, the leadership of Massachusetts is as marked as in grade crossing elimination. From figures submitted by 22 States to the National Association of Railway Commissioners in 1917, it appears that, in the aggregate, only 10 per cent of the railroad grade crossings in those states are protected, and a much lower percentage would undoubtedly be found in the states which failed to report. In Massachusetts, however, as a result of successive orders of the Commission, 1,060, out of a total of 1,765, or approximately 60 per cent of

all railroad grade crossings in the state, are now protected. Of the 1,042 protected crossings on the three principal railroads of the commonwealth, 842 are protected by gates or flagmen and 200 by electric signals. On the Boston and Maine railroad 509, out of 709, or approximately 70 per cent of all grade crossings, are protected, 440 by gates or flagmen and 69 by electric signals. In furnishing this protection, that railroad alone last year employed over 1,000 men at crossings and expended over \$650,000, a very heavy financial burden in view of the fact that the company was unable to pay any dividend and was in the hands of a receiver.

The annual death toll at railroad grade crossings in the United States is in the neighborhood of 2,000, and in this state alone, although the ratio of accidents is much lower than in the country at large, 30 persons were killed at grade crossings last year. Moreover, despite the very large expenditures made for grade crossing protection, the somewhat surprising fact is disclosed that both the number and the ratio of accidents at protected crossings have been greater than at unprotected crossings. On all railroads in the state, 26 fatal accidents occurred at protected and only 4 at unprotected crossings, and of 13 fatal accidents on the Boston and Maine railroad 5 occurred at crossings protected by gates, 2 at crossings protected by flagmen, 6 at crossings protected by bells and none at unprotected crossings. While this result may be accounted for by the fact that, in general, the volume of traffic is greater, and operating conditions are more dangerous, at protected than at unprotected crossings, it is apparent that no form of protection will afford complete security against fatal or serious accidents.

As already stated, each of the crossings now under consideration is protected by a device known as the Brach automatic flagman. On the Boston and Maine railroad, signals of this character are installed at 60 crossings, 9 in Massachusetts, 44 in New Hampshire and 7 on the remainder of the system. At the time these signals were installed by order of the Commission, it was believed that this combination of visible and audible signals in conjunction with the other warning devices employed at these crossings would afford ample protection to the public. Trains approaching these crossings are required to ring the bell on the engine and to sound four blasts of the steam whistle, and the usual warning signs, with the inscription "RAILROAD CROSSING — LOOK OUT FOR THE ENGINE", have been

erected. At a short distance from the crossings, signs have also been erected, plainly inscribed with the words "RAILROAD CROSSING — NO FLAGMAN — DANGEROUS". In addition, there are the warning signs consisting of a white metal disc, two feet in diameter, with a black perpendicular and horizontal crossline and the letters "R.R." which are required by the provisions of chapter 246 of the General Acts of 1917, and by similar statutes in most of the other states, to be erected in a conspicuous place in the highway on either side of every railroad grade crossing and at a distance of not less than 300 feet from such crossing, and which should be sufficiently familiar to convey the necessary warning to all travelers on the highway. There are thus four separate visual signs at each crossing in addition to the crossing bells and the warning signals from approaching trains. On the other hand, there is a depression in the highway between these crossings, the approach to each is by an ascending grade, the view of the railroad tracks in certain directions is partially obscured by trees and underbrush on land adjoining the highway, and there is an additional element of danger in the proximity of the crossings to each other. In spite of these conditions, it would seem that the means of warning and protection described above should be ample to safeguard automobile travel if the vehicles are operated with ordinary care and caution.

It is unfortunately true, however, as the daily record of automobile accidents clearly indicates, that certain automobile drivers are disposed to take rash and foolhardy chances. Our reports of accidents at railroad grade crossings show that automobiles frequently run into flagmen displaying the "STOP" sign, or run by them at undiminished speed, that they run into the crossing gates and even into trains that are standing at the crossings. Significant evidence of the prevalence of these reckless practices is shown by the fact that on the Portland division of the Boston and Maine railroad, where there are 130 crossings protected by gates, there have been 76 instances thus far this year where automobiles have collided with the gates. In general it may be said that automobile collisions at grade crossings are not primarily due to inadequate means of protection at such crossings, but are the result of the same kind of reckless driving which so frequently leads to collisions with other vehicles on the highway. It is to be observed, moreover, that under the provisions of section 3 of chapter 246 of the General Acts of 1917,

already referred to, all automobile drivers, upon approaching any railroad grade crossing, are required, under suitable penalties, to reduce their speed to a reasonable and proper rate and to proceed cautiously over the crossing. This law seems to be consistently disregarded by automobile operators and apparently little attempt has been made to enforce it.

These conditions are apparently not peculiar to Massachusetts, but constitute a grave problem for the entire country. In this connection it may be pertinent to quote from a recent report of the Public Utilities Commission of Maine on a grade crossing accident in that state: —

If accidents like this are to occur under such circumstances as appear in this case, certainly all the precautions taken and all the great expense incurred both by the state and by the railroad companies to protect the public at grade crossings, appear to be vain and useless. Something further is required. The careless, the stupid and the negligent automobile driver must be taught that he cannot, with impunity, disregard the rights of the railroad company and the public and violate the plain requirements of the law, as well as of common sense, which he and every one is presumed to know. No automobile driver, who is guilty of such practices, ought to be permitted to retain his license, and thereby continue to be a menace to himself and every one else with whom he comes in contact. It would also seem to be reasonable and proper that such a driver, when a fatal accident has occurred, through his carelessness or negligence, should be presented to the Grand Jury, and if the evidence will warrant it, indicted and tried for manslaughter. We know of no other procedure which will in any efficient way protect the public, and prevent such unfortunate and unnecessary accidents as the one we are now considering. — (*Re Grand Trunk Railway. Accident at Coye's crossing, A408, May 27, 1919.*)

While it is a question how far the state and the patrons of the railroad companies should reasonably be required to expend large sums of money to provide protection against the reckless operation of automobiles over railroad grade crossings, we believe that an enlightened public policy requires that every reasonable precaution should be taken for the preservation of human life. Indeed, it is doubtless true that nearly all the measures which have at any time been taken in the interest of public safety have been prompted largely by the necessity of saving the public from the results of their own carelessness and folly. Moreover, while a stricter regulation of automobile operation would undoubtedly be the most effective means of preventing

the recurrence of accidents at these and other grade crossings, that matter is outside of our jurisdiction and is not one for which we have any official responsibility. Our problem is merely to determine the means of protection which the railroad company should be required to employ for the better security of the traveling public.

The company claims that the most effective means of protection would be afforded by the installation of an automatic flagman of an improved type which has recently been designed. The chief improvement over the type now installed at these crossings consists in the addition of a swinging arm with a circular disc bearing a "STOP" sign. One of these signals has been installed in New Hampshire, and nine others, replacing in some cases human flagmen, have already been installed in Maine by order of the Public Utilities Commission. While it is possible that this type of signal may have all the merits claimed by the company, and while it may be desirable that it should be tried out in practical operation in this state, we are unwilling to run the risk of experiment at these crossings where there is such an enormous volume of automobile travel and where the recent record of accidents has been so large. Upon the evidence now available we share the view of the Peabody city government that the most effective protection can be afforded at these crossings by means of human flagmen. To protect these two crossings during the entire period of railroad operation would require five flagmen and involve an expense of over \$5,000 a year. While we have no desire to add to the financial burdens of the company, we believe that an expenditure even of this comparatively large amount should not stand in the way of measures which seem to be urgently required in the interest of public safety.

It is therefore

Ordered, That the Boston and Maine Railroad be hereby required to maintain flagmen at the grade crossings of Newbury street on the Salem branch and the Newburyport branch of its railroad in the city of Peabody during the passing of all trains over said crossings.

By the Commission,

ANDREW A. HIGHLANDS,

OCTOBER 3, 1919. [P. S. C. 2465]

Secretary.

Petition of the Town Improvement Committee of Marshfield relative to the establishment of crossing protection at the highway crossing on the New York, New Haven and Hartford railroad near the Marshfield station.

At a hearing upon this petition it was arranged that a conference should be had between representatives of the Improvement Committee of Marshfield, officials of the New York, New Haven and Hartford railroad, and a representative of the Inspection Department of the Commission, with a view to determining the proper and adequate protection that should be afforded at this crossing. As a result of such a conference held on May 22, 1919, at the Marshfield station, an arrangement was made to ensure the protection of the crossing by a flagman during the passage of all trains. It was agreed that this scheme should remain in effect for a trial period of three months, and, if satisfactory, should be permanent.

The three months' trial period having expired, the Commission again took the matter up with the selectmen of Marshfield, and under date of October 2, 1919, received a reply stating that the tentative arrangement, above referred to, in effect at the Marshfield station grade crossing during the last three months has been perfectly satisfactory.

In view of the circumstances in this case, no order of the Commission will be necessary, but it is understood that the tentative arrangement, above referred to, is to remain in effect until otherwise changed or modified by the Commission.

It is therefore

Ordered, That the petition be placed on file.

For the Commission,

ANDREW A. HIGHLANDS,

OCTOBER 8, 1919.

[P. S. C. 2407]

Secretary.

Petition of the selectmen of Sandwich for the extension of time during which the crossing of the state highway and the New York, New Haven and Hartford railroad at East Sandwich shall be protected.

The state highway crosses the tracks of the New York, New Haven and Hartford railroad diagonally near the East Sandwich

station in the town of Sandwich. The station and the freight house are located close to the crossing so that the view of approaching trains is somewhat obstructed in approaching the crossing from the east.

On December 23, 1913, on petition of the town of Sandwich the Commission ordered this crossing protected by a flagman, between the passing of the first passenger train in the morning and the last passenger train in the evening, during the months of May, June, July, August and September. The petitioners request that similar protection be afforded during the remainder of the year.

While the traffic on the railroad during the remaining months of the year is greatly reduced, the Commission is of the opinion, in view of the dangerous character of the crossing and the large number of vehicles which travel over it, that crossing protection similar to that now furnished during the summer months should be afforded throughout the year.

It is therefore

Ordered, That the order of the Commission under date of December 23, 1913, providing for protection at the grade crossing near the East Sandwich station on the New York, New Haven and Hartford railroad, in the town of Sandwich, during certain months of each year, be extended to apply throughout the remainder of each year.

By the Commission,

ANDREW A. HIGHLANDS,

MARCH 7, 1919. [P. S. C. 294]

Secretary.

Petition of the selectmen of Sheffield relative to the establishment of flag protection at the Willowbrook Dairy Crossing and the Methodist church crossing of the New York, New Haven and Hartford railroad in that town.

Miller avenue, in the town of Sheffield, crosses the tracks of the New York, New Haven and Hartford railroad at grade at a point about 1,500 feet north of the railroad station in that town, and is commonly known as Willowbrook Dairy Crossing. The grade of the railroad at this point is somewhat lower than the surface of the adjoining land, so that the view of approaching trains from the highway is somewhat obstructed by the embank-

ments on either side of the highway, and the proximity of a building to the crossing.

Burtch street crosses the tracks of the same railroad at grade at a point about 1,300 feet south of the Sheffield station, near the Methodist church. This crossing is commonly known as the Methodist church crossing. Burtch street is a main thoroughfare from New York through Sheffield to the Berkshires, and is quite extensively used by automobiles. While the grade of the tracks at this crossing is more nearly the same as the adjoining land, the view of trains approaching this crossing is somewhat obstructed, especially on the east side of the railroad, by sheds and buildings close to the railroad location. In addition to the main track on this crossing there is a siding used by trains in passing each other, and the view is also more or less obstructed when a train is standing close to the crossing. Counts taken by the company for a 24-hour period in September last, showed that 22 automobiles, 103 teams, 6 other vehicles and 204 pedestrians passed over the Willowbrook crossing, and during the same period 214 automobiles, 127 teams, 39 other vehicles and 165 pedestrians passed over the Methodist church crossing. There were 9 trains each way during this period on the railroad. Most persons who go daily to the dairy use the Willowbrook Dairy crossing between 7 A.M. and 10 A.M., and are more or less familiar with conditions at the crossing, while many of those using the Methodist church crossing, especially those in automobiles, are through travelers.

The petitioners contend that the crossings are dangerous on account of the limited view of trains, caused by the embankments on either side of the highway at the Willowbrook crossing, and the proximity of buildings to the railroad at the Methodist church crossing, and they are of the opinion that the safety of the traveling public requires protection at these crossings.

After a hearing, and an examination and report by its Inspection Department, the Commission is of the opinion that public necessity and convenience require protection at these crossings.

There has recently been developed and installed at various points on the Boston and Maine railroad a type of signal known as the "Improved Audible-visible Signal." This signal, in addition to having a row of red lights which are alternately lighted and extinguished, has an arm bearing a red circular disc marked "STOP", which swings with a pendulum motion when a train approaches a crossing, and is also lighted by daylight signal

lights. It is a decided improvement over the automatic crossing signals now in use on the New York, New Haven and Hartford railroad. In addition, it has a larger gong, making it more effective, and by its moving back and forth it also attracts the attention of travelers on the highway.

It is therefore

Ordered, That the New York, New Haven and Hartford Railroad Company install and maintain at the Willowbrook Dairy crossing and at the Burtch street crossing in the town of Sheffield, an "Improved Audible-visible Signal" of the type now used on the Boston and Maine railroad, the gong arrangement on the signal to be omitted at the Burtch street crossing.

	Attest:	ALLAN BROOKS,
NOVEMBER 29, 1919.	[P. S. C. 1894]	<i>Assistant Secretary.</i>

EXTENSION OF TIME FOR MAINTAINING GRADE CROSSINGS.

Petition of the West End Street Railway Company, by the Boston Elevated Railway Company, its attorney, for authority to maintain and use an existing grade crossing, heretofore authorized, of railroad and railway in Arlington.

After notice and hearing, —

It is

Ordered, That the petitioner be authorized to maintain and use a crossing of its railway and the tracks of the Boston and Maine railroad at the same level at Massachusetts avenue in the town of Arlington, from the date of this order until December 1, 1921, subject to all provisions of law and to the conditions embodied in the order of the Board of Railroad Commissioners issued April 13, 1900, and to the further conditions that any substantial increase in the use of the crossing by the railway or railroad shall be seasonably reported by the petitioner to this Commission.

	Attest:	ANDREW A. HIGHLANDS,
OCTOBER 29, 1919.	[P. S. C. 2493]	<i>Secretary.</i>

Under the provisions of sections 21 and 22 of part I, chapter 463, Acts of 1906, during the period covered by this report, additional orders have been issued extending the time for maintenance of crossings of railroads and railways. Appended is a list of these orders: —

West End Street Railway.

Boston, October 29, 1919 — At Neponset avenue, with the New York, New Haven and Hartford railroad, until December 1, 1921. Original order issued November 5, 1903. [P. S. C. 2493]

Somerville, October 29, 1919 — At Davis square, with Boston and Maine railroad, until December 1, 1921. Original order issued April 13, 1900. [P. S. C. 2493]

Watertown, October 29, 1919 — At Arsenal street, until December 1, 1921. Original order issued April 20, 1900. [P. S. C. 2493]

Boston and Worcester Street Railway.

Framingham, November 12, 1919 — At Worcester street, with the New York, New Haven and Hartford railroad, until January 1, 1922. Original order issued February 28, 1899, and modified January 5, 1917. [P. S. C. 2505]

Concord, Maynard and Hudson Street Railway.

Concord, November 12, 1919 — At Main street, with the New York, New Haven and Hartford railroad, until March 1, 1921. Original order issued February 1, 1902. [P. S. C. 2514]

Middlesex and Boston Street Railway.

Hopkinton, November 12, 1919 — At Main street, with the New York, New Haven and Hartford railroad, until December 1, 1921. Original order issued November 22, 1901, amended July 5, 1902. [P. S. C. 2512]

Northern Massachusetts Street Railway.

Templeton, November 12, 1919 — At Athol road, with the Boston and Albany railroad, until March 1, 1921. Original order issued January 14, 1901, amended July 10, 1912. [P. S. C. 2515]

CHANGE IN GRADE.

Petition of the Old Colony Railroad Company and the New York, New Haven and Hartford Railroad Company for consent to change in the grade of the Old Colony railroad in the city of Quincy.

It appearing that a change in the grade of the Old Colony railroad (New York, New Haven and Hartford Railroad Company, lessee) in the city of Quincy is incidental to the revised plan finally adopted by the special commission appointed by the superior court to consider the matter of the abolition of the grade crossings of Saville and Water streets in that city, after full consideration, —

It is

Ordered, That the consent of the Commission be hereby given to the following change in railroad grade proposed by the special commission above named in connection with its plan for the abolition of said crossings in said city:

The grade of the Old Colony Railroad is hereby changed and established as follows, viz.:

Beginning at station 406 plus 53 of the base line of location of said railroad as shown on said plan at the elevation of forty-four and eight tenths (44.8) feet; thence southerly ascending by a vertical curve to station 410 plus 53 at the elevation of forty-six and thirty-five hundredths (46.35) feet; thence by an ascending grade at the rate of naught and eleven hundredths (0.11) feet per hundred (100) feet, to station 421 plus 50 at the elevation of forty-seven and fifty-six hundredths (47.56) feet; thence southerly descending by a vertical curve to station 423 plus 50 at the elevation of forty-seven and forty-four hundredths (47.44) feet; thence by a descending grade at the rate of naught and twenty-three hundredths (0.23) feet per hundred (100) feet to station 431 plus 50 at the elevation of forty-five and six tenths (45.6) feet; thence southerly descending by a vertical curve to station 434 plus 50 at the elevation of forty-five and forty-four hundredths (45.44) feet; thence by an ascending grade at the rate of naught and one hundred twenty-five thousandths (0.125) feet per hundred (100) feet to station 446 plus 50 at the elevation of forty-six and ninety-four hundredths (46.94) feet; thence ascending by a vertical curve to station 447 plus 50 at the elevation of forty-seven (47) feet; thence level to station 465; thence ascending by a vertical curve to station 468 at the elevation of forty-seven and fifty-one hundredths (47.51) feet.

Attest: ANDREW A. HIGHLANDS,

NOVEMBER 28, 1919. [P. S. C. 2418]

Secretary.

Petition of the Old Colony Railroad Company and the New York, New Haven and Hartford Railroad Company for certificate relative to abolition of grade crossings in Quincy.

After notice and hearing and an examination of the proposed plan for abolishing the grade crossings of the tracks of the Old Colony railroad, leased to and operated by the New York, New Haven and Hartford Railroad Company, and the highways known as Saville street and Water street in the city of Quincy, as revised and finally adopted in a report of the special commission appointed by the superior court to consider the matter, filed on or about April 30, 1919, and after consideration of the expenditure therein authorized, —

It is

Ordered, That the Commission hereby certify that in its opinion the adoption of said plan and the incurring of such expenditure are consistent with the public interests and are reasonably required to secure a fair distribution between the different cities, towns and railroads of the commonwealth of the public money appropriated for the abolition of grade crossings, and that such expenditure will not in its judgment exceed the amount to be paid by the commonwealth under the provisions of law relating thereto.

Attest: ANDREW A. HIGHLANDS,
NOVEMBER 28, 1919. [P. S. C. 2409] *Secretary.*

PRIVATE RAILROADS.

Petition of the Post Publishing Company relative to the establishment of switch connection between the tracks of the Boston and Maine Railroad and private tracks which said company proposes to construct at grade across Rutherford avenue in the Charlestown district of Boston.

It appearing, after notice and hearing, that the petitioner is the owner of certain land, with buildings thereon, at the corner of Tibbetts town way and Rutherford avenue in that part of the city of Boston known as Charlestown being directly across said Rutherford avenue from the property and tracks of the Boston and Maine Railroad; that the Board of Street Commissioners of Boston has granted to the petitioner permission to lay down, maintain and use for the transportation of freight

by steam power railroad tracks at grade upon and across said Rutherford avenue from tracks of the Boston and Maine Railroad into said property of the petitioner, and that said construction and maintenance are consistent with the public interests;

And it further appearing that Walker D. Hines, Director General of Railroads, and the said Post Publishing Company have reached an agreement for the switching by the said Boston and Maine Railroad to and from said track of carload freight consigned to the petitioner, therein called the shipper, upon the condition that the switching service upon this track shall be limited to the cars necessary to fill the storehouse of the shipper, now or to be erected on Tibbetts town way, with paper stock, and upon the further condition that such switching shall be performed by the railroad at times to be selected by the railroad with a view to as little interference as possible, with the setting up of the freight house tracks and with the operation of the lead tracks thereto, and under the following stipulations: —

1. The shipper agrees to construct the said track in a manner satisfactory to the railroad and to pay the expenses of any crossing protection which may now or which may hereafter become necessary.

2. The shipper agrees to keep the said track including all grading, culverts, conduits, crossing planking and other protection, and all other structures appurtenant thereto in proper repair, to remove ice and snow therefrom and to keep the same in suitable condition without notice from the railroad. The railroad may refuse to operate upon said track when its condition is unsatisfactory to the railroad.

3. The shipper agrees to release the railroad from and to indemnify and save it harmless against any and all claims for loss or damage by fire to the property, real or personal, owned by, in the possession of or under the control of the said shipper and to contents of cars placed on said sidetrack for the shipper when caused by engines while operating upon or doing work in connection with said sidetrack.

It is

Ordered, That the consent of the Commission be hereby given to the construction and maintenance by the petitioner, under the conditions and stipulations above set forth, of a railroad for private use in the transportation of freight, to be operated by steam power upon and across the highway known as Rutherford avenue in the Charlestown district of the city of Boston, as shown upon a plan on file with the petition.

This consent is given upon the further condition that a flagman shall display a flag by day and a lantern by night when-

ever an engine, car or train is approaching and while it is passing over said crossing, and that no engine, car or train shall cross at a greater speed than four miles an hour.

Attest: ANDREW A. HIGHLANDS,
JULY 8, 1919. ^{clerk} [P. S. C. 2443] Secretary.

Petition of Henry B. Day, J. Sumner Draper, Edward Hamlin and Willard Welsh, Trustees, for consent to construction of private railroad at grade across certain highways in the Dorchester district of Boston.

It appearing, after notice and hearing, that the board of street commissioners of the city of Boston has granted to the petitioners permission to construct a private railroad at grade across Old Colony avenue, Columbia road, Mt. Vernon street, a public way, and Mt. Vernon street, a travelled way, in the Dorchester district of the city of Boston, to be operated by steam power, for private use in the transportation of freight, and that such construction and maintenance are consistent with the public interests, —

It is

Ordered, That the consent of the Commission be hereby given to the construction and maintenance by the petitioner of a railroad, for private use in the transportation of freight, to be operated by steam power upon and across Old Colony avenue, Columbia road, Mt. Vernon street, a public way, and Mt. Vernon street, a travelled way, in the Dorchester district of the city of Boston, as shown upon a plan on file with the petition.

This consent is given upon the condition that a flagman shall display a flag by day and a lantern by night whenever an engine, car or train is approaching and while it is passing over said crossings, and that no engine, car or train shall cross at a greater speed than four miles an hour.

Attest: ANDREW A. HIGHLANDS,
NOVEMBER 12, 1919. [P. S. C. 2504] Secretary.

Petition of Trustees of the Standard Assets Trust for consent to the construction of a private railroad at grade across Holton street in the Brighton district of Boston.

It appearing that the board of street commissioners of the city of Boston has consented to the construction of the proposed railroad across the highway; and that public necessity requires

that the railroad cross the highway at a level therewith, and that the same is consistent with the public interests, — it is

Ordered, That the consent of the Commission be hereby given to the construction and maintenance by the petitioner of a railroad for private use in the transportation of freight, to be operated by steam power upon and across the highway known as Holton street in the Brighton district of the city of Boston, as shown upon a plan on file with the petition.

This consent is given upon the condition that a flagman shall display a flag by day and a lantern by night whenever an engine, car or train is approaching and while it is passing over said crossing, and that no engine, car or train shall cross at a greater speed than four miles an hour.

Attest: ANDREW A. HIGHLANDS,
JUNE 2, 1919. [P. S. C. 2413] *Secretary.*

Petition of Commission on Waterways and Public Lands for consent to the construction and maintenance of private railroad track across Marginal street at grade in the East Boston district of the city of Boston.

At a public hearing upon this petition, evidence was offered purporting to show that the Eastern Railroad Company, when the land for Marginal street was deeded to the City of Boston, reserved to itself and assigns the right to construct and maintain a railroad track *across Marginal street* in East Boston and that this right passed to the Directors of the Port of Boston (predecessors of the Commission on Waterways and Public Lands) when they took over the site of the railroad pier of the Eastern Railroad Company, and some question arose as to whether the consent of the street commissioners of the city of Boston, or the consent of this Commission, was necessary for the construction of the track across Marginal street. It is unnecessary at this time to pass upon that question, as the Commission, in any event, has no original jurisdiction in regard to a crossing of this character and until such time as a location is granted by the street commissioners of the city of Boston, no action can be taken by this Commission. As no steps have been taken to secure such location from the local authorities, the petition is placed on file.

For the Commission,

 ANDREW A. HIGHLANDS,
MARCH 14, 1919. [P. S. C. 2243] *Secretary.*

Petition of The Summer Street Extension Trust and the Boston Merchandise & Wool Stores, Inc., for consent to the construction of private railroad tracks across Fargo street in the South Boston district of Boston.

It appearing, after notice and hearing, that the board of street commissioners of the city of Boston has granted to the petitioner permission to construct private railroad tracks across Fargo street in the South Boston district, to be operated by steam power, for private use in the transportation of freight, and that such construction and maintenance are consistent with the public interests, —

It is

Ordered, That the consent of the Commission be hereby given to the construction and maintenance by the petitioner of railroad tracks, for private use in the transportation of freight, to be operated by steam power upon and across the highway known as Fargo street, between C and D streets, in the South Boston district of the city of Boston, as shown upon a plan on file with the petition.

This consent is given upon the condition that a flagman shall display a flag by day and a lantern by night whenever an engine, car or train is approaching and while it is passing over said crossings, and that no engine, car or train shall cross at a greater speed than four miles an hour.

Attest: ANDREW A. HIGHLANDS,

OCTOBER 29, 1919. [P. S. C. 2488]

Secretary.

Petition of the Stetson Coal Company for consent to the construction of private railroad tracks across East First street at grade in the South Boston district of Boston.

It appearing, after notice and hearing, that the board of street commissioners of the city of Boston has granted to the petitioner permission to construct a railroad across East First street in the South Boston district, to be operated by steam power, for private use in the transportation of freight, and that such construction and maintenance are consistent with the public interests, — it is

Ordered, That the consent of the Commission be hereby given to the construction and maintenance by the petitioner of a railroad, for private use in the transportation of freight, to be operated by steam power upon and across the highway known

as East First street, near I street, in the South Boston district of the city of Boston, as shown upon a plan on file with the petition.

This consent is given upon the condition that a flagman shall display a flag by day and a lantern by night whenever an engine, car or train is approaching and while it is passing over said crossing, and that no engine, car or train shall cross at a greater speed than four miles an hour.

Attest: ANDREW A. HIGHLANDS,

OCTOBER 6, 1919. [P. S. C. 2478]

Secretary.

Petition of the A. L. Smith Iron Works for consent to the construction and maintenance of private railroad across a highway at grade in Chelsea.

It appearing that the board of aldermen of the city of Chelsea has consented to the construction of the proposed railroad across the highway; that public necessity requires that the railroad cross the highway at a level therewith, and that the same is consistent with the public interests, — it is

Ordered, That the consent of the Commission be hereby given to the construction and maintenance by the petitioner of a railroad for private use in the transportation of freight, to be operated by steam power across the highway known as Maple street in the city of Chelsea, as shown upon a plan on file with the petition.

This consent is given upon the condition that a flagman shall display a flag by day and a lantern by night whenever an engine, car or train is approaching and while it is passing over said crossing, and that no engine, car or train shall cross at a greater speed than four miles an hour.

Attest: ANDREW A. HIGHLANDS,

JULY 2, 1919. [P. S. C. 2433]

Secretary.

Petition of the Taunton State Hospital for consent to the construction and maintenance of private railroad across Dana street in the city of Taunton.

It appearing, after notice and hearing, that the Municipal Council of the City of Taunton has consented to the construction of the proposed railroad across the highway; that the county commissioners of Bristol county have adjudged that

public necessity requires that the railroad cross the highway at the same level therewith, and that the same is consistent with the public interests, — it is

Ordered, That the consent of the Commission be hereby given to the construction and maintenance by the petitioner of a railroad for private use in the transportation of freight, to be operated by steam power upon and across the highway known as Dana street in the city of Taunton, as shown upon a plan on file with the petition.

This consent is given upon the condition that a flagman shall display a flag by day and a lantern by night whenever an engine, car or train is approaching and while it is passing over said crossing, and that no engine, car or train shall cross at a greater speed than four miles an hour.

Attest: ANDREW A. HIGHLANDS,

JANUARY 30, 1919. [P. S. C. 2333]

Secretary.

RAILROAD LOCATIONS.

Petition of the Boston and Albany Railroad Company that the Commission prescribe the limits within which certain land in the town of Westfield may be taken for railroad purposes.

Upon the petition of the Boston and Albany Railroad Company, filed April 15, 1919, under the provisions of section 78 of Part II of chapter 463 of the Acts of 1906, as amended by chapter 157 of the General Acts of 1915, praying that the Public Service Commission prescribe the limits within which it may take certain land for railroad purposes in the town of Westfield in the county of Hampden in the commonwealth of Massachusetts, outside the limits of its route already fixed in said town, for the purpose of making or securing its railroad, for depot or station purposes or for one or more new tracks adjacent to other land occupied by it by a track or tracks already in use, due notice of the above petition and of the time and place of hearing thereon has been given to the owners of said land and to other parties interested therein, in the manner prescribed by law and in accordance with the order of notice issued on said petition, and a hearing on said petition has been given on April 28, 1919.

All persons appearing at the hearing held as aforesaid having been heard, and the subject matter of said petition having been duly considered, it is now determined and adjudged that the said Boston and Albany Railroad Company requires additional land in Westfield for the purpose of making or securing its railroad, for depot or station purposes or for one or more new tracks adjacent to other land occupied by it by a track or tracks already in use, and is unable to obtain the same by agreement with the owners, and it is further determined, ordered and decreed that such land may be taken as by law provided within the following limits, to wit: —

Certain parcels of land situated in the town of Westfield, county of Hampden and commonwealth of Massachusetts, bounded and described as follows: —

Parcel No. 1. — Beginning at an iron rail imbedded in the ground at a point on land supposed to belong to John C., August and William

K. Buschmann, distant fifty-one and twenty-five hundredths ($51^{25}/_{100}$) feet northerly from the base line of the location of the Boston and Albany Railroad measured at right angles thereto at Station 491+07.07; thence running south $71^{\circ} 53'$ east (magnetic course) over land of said Buschmanns by a line parallel with said base line and distant fifty-one and twenty-five hundredths ($51^{25}/_{100}$) feet northerly therefrom about two hundred and forty and fifty-six hundredths ($240^{56}/_{100}$) feet to an iron rail imbedded in the ground on the dividing line between land of said Buschmanns and land of the Boston and Albany Railroad Company; thence turning and running south $23^{\circ} 21'$ west (magnetic course) by said dividing line about fifteen and six hundredths ($15^6/_{100}$) feet to other land of said Railroad Company; thence turning and running north $71^{\circ} 53'$ west (magnetic course) by said land of said Railroad Company about two hundred and thirty-nine and fifty-four hundredths ($239^{54}/_{100}$) feet to an iron rail imbedded in the ground distant thirty-six and twenty-five hundredths ($36^{25}/_{100}$) feet northerly from said base line measured at right angles thereto at Station 491+07.43; thence turning and running north $19^{\circ} 26'$ east (magnetic course) by land of said Buschmanns about fifteen (15) feet to the place of beginning, containing 3,601 square feet, more or less; said parcel is supposed to belong to John C., August and William K. Buschmann.

Parcel No. 2. — Beginning at an iron rail imbedded in the ground at a point on the dividing line between land of the Boston and Albany Railroad Company and land supposed to belong to Bridget Sullivan, distant forty-six and twenty-five hundredths ($46^{25}/_{100}$) feet northerly from the base line of the location of the Boston and Albany Railroad measured at right angles thereto at Station 487+32.24; thence running south $71^{\circ} 53'$ east (magnetic course) over land of said Sullivan by a line parallel with said base line and distant forty-six and twenty-five hundredths ($46^{25}/_{100}$) feet northerly therefrom about two hundred and eight and ninety-seven hundredths ($208^{97}/_{100}$) feet to land supposed to belong to the Bay State Foundry Company; thence continuing on the same course over land of said Foundry Company about one hundred and ninety-two and thirty hundredths ($192^{30}/_{100}$) feet to land supposed to belong to the Brien Heater Company; thence continuing on the same course over land of said Brien Heater Company about seventy-one and seventy-eight hundredths ($71^{78}/_{100}$) feet to land supposed to belong to the American Abrasive Company; thence continuing on the same course over land of said Abrasive Company about one hundred and seventy-nine and nineteen hundredths ($179^{19}/_{100}$) feet to an iron rail imbedded in the ground opposite Station 480+80 on said base line; thence turning and running south $87^{\circ} 12'$ east (magnetic course) about seventy-five and seventy-one hundredths ($75^{71}/_{100}$) feet to an iron rail imbedded in the ground on land of said American Abrasive Company distant sixty-six and twenty-five hundredths ($66^{25}/_{100}$) feet northerly from said base line of location measured at right angles thereto at Station

480+07; thence turning and running south $71^{\circ}53'$ east about four hundred and forty-two and ninety-one hundredths ($442^{91/100}$) feet over land of said American Abrasive Company to land supposed to belong to said John C., August and William K. Buschmann; thence continuing on the same course over said land supposed to belong to said Buschmanns about seven hundred and forty-two and forty hundredths ($742^{40/100}$) feet to land supposed to belong to Frederick K. Hanchett; thence continuing on the same course over said land of said Hanchett about three hundred and eight and five-tenths ($308^{5/10}$) feet to a point on the northwesterly line of Fowler street distant sixty-six and twenty-five hundredths ($66^{25/100}$) feet northerly from the said base line of said location measured at right angles thereto at or near Station 465+13.19; thence turning and running southwestwardly by the said northwesterly line of said Fowler street about thirty-two and seventy-one hundredths ($327^{1/100}$) feet to land of said Railroad Company; thence turning and running north $71^{\circ}53'$ west (magnetic course) by land of said Railroad Company about twenty-two hundred and six and ninety-one hundredths ($2,206^{91/100}$) feet to other land of said Railroad Company; thence turning and running north $23^{\circ}19'$ east (magnetic course) by said other land of said Railroad Company about ten and four hundredths ($10^{4/100}$) feet to the place of beginning, containing 53,606 square feet, more or less, subject to any right which the town of Westfield may have to lay, make, repair and maintain a sewer at or near the easterly end of said parcel supposed to belong to said Buschmanns, and to any and all rights of way or crossing, if any there be, at the easterly end of said parcel supposed to belong to said Hanchett; said parcel is supposed to belong to Bridget Sullivan, Bay State Foundry Company, Brien Heater Company, American Abrasive Company, John C., August and William K. Buschmann and Frederick K. Hanchett.

All of said parcels of land are shown within lines marked in yellow upon a plan entitled "Boston & Albany R.R. (The N. Y. C. R.R., Co., Lessee), Albany Division, Main Line, Additional Land Required for Railroad Purposes, Westfield," dated April, 1919, and signed by us and filed herewith.

FREDERICK J. MACLEOD,
EVERETT E. STONE,

MAY 14, 1919. [P. S. C. 2400]

Commissioners.

MOTOR VEHICLES.

JITNEY REGULATIONS.

[P. S. C. 2151]

Petition of the Union Street Railway Company relative to regulations governing the operation of jitneys in the city of New Bedford.

[P. S. C. 2158]

Petition of the Massachusetts Northeastern Street Railway Company governing the operation of jitneys in the city of Newburyport.

[P. S. C. 2171]

Petition of the Nahant and Lynn Street Railway Company relative to regulations governing the operation of jitneys in the city of Lynn and the town of Nahant.

[P. S. C. 2290]

Petition of Justin B. Johnson and George H. Kibbey relative to regulations governing the operation of jitneys in the town of Nahant.

[P. S. C. 2182]

[P. S. C. 2187]

[P. S. C. 2189]

[P. S. C. 2191]

[P. S. C. 2193]

[P. S. C. 2194]

[P. S. C. 2197]

Petitions of the Bay State Street Railway Company relative to regulations governing the operation of jitneys in the cities of Lawrence, Haverhill, Malden, Lynn, Salem, Brockton, and the town of Swampscott.

These are petitions requesting the Public Service Commission, in accordance with the provisions of chapter 226 of the General Acts of 1918, to review the orders, rules and regulations prescribed by the cities of Malden, Lynn, Salem, Lawrence, Haverhill, Newburyport, Brockton and New Bedford, and the towns of Swampscott and Nahant, with respect to motor vehicles not running on rails or tracks, but operating upon public streets or ways "for the carriage of passengers for hire in such a manner as to

afford a means of transportation similar to that afforded by a street railway by indiscriminately receiving and discharging passengers along the route on which the vehicle is operated." Authority to license and regulate such motor vehicles, commonly known and hereinafter referred to as jitneys, was given by chapter 293 of the General Acts of 1916, to cities and towns accepting the provisions of that act. Under the 1918 statute the jitney is expressly declared to be a common carrier and the local regulations prescribed under the 1916 statute are made subject to appeal to and review by the Commission. Appeal from the regulations prescribed in the town of Nahant was taken both by the Nahant and Lynn Street Railway Company and by certain local jitney operators, but in all the other petitions the sole appellant is the local street railway company, — the Massachusetts Northeastern Street Railway Company in the city of Newburyport, the Union Street Railway Company in the city of New Bedford and the Bay State Street Railway Company in the other municipalities.

A brief account of the origin and development of the jitney as a serious competitor of the street railway, together with a résumé of the more important state laws and local regulations relating to jitneys which had been adopted in this and other states is given in the annual report of the Commission for the year 1915 (3 P. S. C. Report, p. cxli). Since the jitney first emerged into public view in the American cities on the Pacific coast, about five years ago, its development as a factor of local transportation has shown many vicissitudes. As the original jitney operators were owners of cheap, second-hand automobiles, who found it difficult to secure employment for themselves or profitable use for their cars during a time of economic depression, jitney operation was regarded merely as a phase of the hard times, which would pass as soon as the jitney owners obtained other regular forms of employment or found necessary repairs too costly to continue operation. So far as the original operators were concerned this proved to a large extent to be true, but as they retired other operators were ready to take their places and to try out the experiment for themselves. As the public also appeared to be eager to avail themselves of the reputed luxury of automobile rides at a nominal cost of a "jitney", which is the western slang term for a five-cent coin corresponding to our "nickel", jitney service suddenly sprang up and assumed large dimensions in many of the principal cities throughout the country. This wave,

however, soon receded, either because jitney owners found costs too high for profitable operation, or as the result of state and municipal regulations.

Since this first reaction jitney service in various sections of the country has shown marked fluctuations in volume, alternately increasing and decreasing, for reasons that are not always easy to discover. It has been estimated that the number of jitneys operated in the United States amounted at one time to over 20,000, but statistics gathered by the United States War Board showed that in the latter part of 1918 this number had fallen to 5,799 (see "Aera," November, 1918, p. 389). The jitney business reached its greatest development in certain cities like Los Angeles, California, where over 1,000 jitneys were at one time in operation, and Dallas, Texas, where the number was over 350, but in these and other cities of the West and South where the traffic had reached the largest proportions comparatively few jitneys are now operated. Until within a comparatively recent period the number of jitneys operated in Massachusetts has been relatively small as compared with other sections of the country.

Last fall, however, according to the statistics of the United States War Board referred to above, there were 993 jitneys operating in Massachusetts, a larger number than in any other single state.

The first step taken in this state to regulate jitney operation was the enactment of chapter 293 of the General Acts of 1916, already referred to, giving to cities and towns accepting the provisions of that act authority to license and regulate the operation of such vehicles. This statute did not prove wholly satisfactory in operation. In the first place, the unregulated operation of jitneys was permitted to continue in cities and towns which failed to accept the act. Moreover, while some of the cities and towns which accepted the act have apparently made a serious attempt to prescribe and enforce reasonably adequate regulations, the jurisdiction given has, for the most part, been exercised in a rather perfunctory manner, and the enforcement of the regulations through proceedings in the criminal court has not proved effective.

Largely as the result of recommendations made last year by the Street Railway Investigation Commission, the 1916 statute was supplemented by the enactment of chapter 226 of the General Acts of 1918. This statute authorized street railway companies, with the approval of the Public Service Commission, to

engage in jitney operation, but no street railway company, so far as we are aware, has availed itself of the authority so granted. The act also provided for an appeal to the Commission from local regulations prescribed under the 1916 statute. All orders, rules or regulations so established were also made enforceable under the provisions of section 28 of the Public Service Act (Acts of 1913, chapter 784). It was apparently intended that the Commission should have original jurisdiction over jitney operation in cities and towns which had not accepted the provisions of the 1916 statute, but such jurisdiction, under the language of the act as drawn, is given only in case the street railway company is itself furnishing a jitney service in such cities or towns. In other respects the act is somewhat crudely drawn, as the exact scope of the Commission's authority in case of appeal, and the policy and standards which are to govern the action of the Commission in reviewing local regulations is not clearly defined. Apparently, however, the Commission is given broad authority, in the exercise of a reasonable discretion, to review all local rules and regulations dealing with jitney operation. It seems obvious also that one of the main purposes of this legislation was to provide for a greater uniformity of state policy in the regulation of this form of transportation. It is true that where the rules and regulations which may properly be prescribed are influenced by purely local traffic or other conditions, the determination of such matters should remain with the local authorities, but where the rules and regulations are reasonably to be regarded as affecting the conduct of the business as a whole, irrespective of the locality, the statute apparently contemplates that the ultimate determination in case of appeal should rest with the Commission, and that such rules and regulations should, so far as practicable, be established upon a uniform basis.

The local regulations adopted in many of the municipalities have been influenced by the fact that a large section of the public is disposed to encourage jitney operation, both because of sympathy for a local enterprise and because it has proved a convenience to the public in supplementing the deficiencies of street railway transportation. If, however, we are to continue the policy of practically unrestricted jitney operation, which has been followed in most of the cities and towns of the commonwealth, we should do so with a full realization of the natural and logical consequences of such a policy. The whole problem of jitney operation in its relation to local transportation and in its

general economic bearing on the street railway situation, is discussed in a comprehensive way in an able report submitted November 5, 1917, by Dr. Adam Shortt, Special Commissioner appointed by the Provincial Government of British Columbia, Canada. Certain extracts from that report in condensed form have been incorporated in the discussion which follows.

In street railway transportation the principle is universally recognized that the greater earning power of the heavier traffic routes must be utilized to help support the outlying routes with lighter traffic. Obviously, if a competitive service such as the jitney comes in, especially during a period of financial depression, and takes away a large section of the most profitable central traffic without relieving the street railway of a single mile of the unprofitable routes, it tends to destroy the capacity of the street railway system to meet its obligations to render adequate service, and if continued must result in the gradual discontinuance of the more unprofitable lines in the outskirts of the city and in the ultimate bankruptcy of the company. Based upon recent experience in this state, it is doubtful if the entire local passenger traffic can adequately support the single transportation service of the street railway companies on any reasonable fare basis, and if potential street railway revenues must be shared with the jitneys, it can only mean that one system or the other must succumb within a comparatively short time, or that both will fail after a period of successive fare increases and of greatly deteriorated service to the public. As between rival systems of transportation it is reasonable and proper that the one which of itself is best adapted to furnish the form of service suited to urban conditions should survive.

If the jitney can furnish a cheaper, more uniform, adequate, reliable and responsible service than the street railway, and if the latter has become virtually obsolete as an agency of transportation, it would be folly to attempt to stay the tide of progress. No matter what sacrifice of invested capital may be involved, the street railway must be permitted to go the way of the old stage-coach, and any attempt to prolong its existence would be misdirected charity, and unjustifiable public policy. In that case the only honest course for the public to pursue is to discourage the investment of new capital in the rehabilitation of railway properties which must be scrapped in the near future, and to permit the owners to save what is possible from the wreck of their investments. On the other hand, if a more

adequate and dependable service can be furnished by the street railway, and if, as the available evidence indicates, the street railway cannot survive under a policy of unrestricted jitney competition, it is plain that the general public interest demands proper regulation of jitney operation as a condition of retaining the existing transportation service.

We believe that a candid investigation of the conditions of jitney operation wherever it has been tried is bound to lead to the conclusion that while jitney service may supplement or destroy the street railway, it cannot take its place. Our present street railway systems are the product of years of organization, and represent the investment of millions of capital in forms which are not readily adaptable for other uses. This fact in itself affords a strong guarantee for the performance of their obligations, and the best inducement for furnishing, where possible, an acceptable service to the public, on whose favor the street railway must entirely depend. On the other hand, the jitney operator, with nothing more at stake than a cheap, second-hand automobile which he can dispose of without substantial loss or convert to other uses, can abandon the field of jitney operation without material sacrifice when anything better turns up. The great fluctuations in the numbers of such vehicles that are from time to time operated in the same communities is a sufficient indication of the irresponsible character of the business. The idea that the constant demands of city traffic can be wholly met by a group of independent, individual jitney operators furnishing service without any co-ordination or guarantee of reasonable permanence, is a palpable delusion, and no such claim, it is fair to say, has been advanced by any of the jitney operators in the present case.

It is true that the ordinary five-passenger or seven-passenger automobile commonly used heretofore in jitney operation is being gradually supplanted by the large motor bus, and that the latter, when properly closed in, lighted and heated, is better adapted to the conveyance of passengers at all seasons and at all hours than the jitney of the older type. Busses of this character have been successfully developed in some of the larger European cities, and have been found to perform a useful supplementary service in cities like Chicago and New York, where the density of traffic is such that every available means of transportation must be utilized, or for operation in streets, parks, and driveways where it would not be desirable to have trolley

tracks or wires. If service of this character should, however, be found to have any advantage in economy of operation or otherwise, we believe that it is of no importance whether the motive power be electricity or gasoline, and that service over existing street railway routes could be furnished most advantageously by the street railway companies themselves through the operation of a trackless trolley bus, using the company's present overhead system.

The advent of the motor bus represents a greatly increased menace to street railway operation, and strengthens the conclusion already reached that the two methods of transportation cannot long co-exist without disaster to one or both, and whatever claims have been advanced for the motor bus, we do not believe it can be seriously argued that it affords a practical alternative for existing street railway facilities. It is easy, if not especially profitable, to indulge in speculation in regard to future developments in motor transportation, but upon all the evidence now available we must continue to rely on the street railway as the only dependable agency in the field which it occupies. Moreover, if jitney competition were entirely eliminated there is every reason to believe that the street railway alone would be able to render cheaper and better service than the street railway and the jitney together now furnish to the public.

As we have already pointed out, statistics published in November, 1918, showed that 993 jitneys were then operating in Massachusetts, or more than one-sixth of the total number for the entire country. Moreover, statistics compiled by the Bay State Street Railway Company show that during the three months' period from November, 1918, to February, 1919, jitneys operating in the territory served by that company increased by 34 per cent. If the patrons of these jitneys, based upon the results of an actual traffic count, had used the street railway lines instead, it would have represented during the month of February an additional weekly revenue to the Bay State Company alone of \$16,600, or over \$860,000 a year. Making the necessary traffic adjustments upon the basis of the results of other fare changes, an increase of one cent in every fare zone would be necessary to offset this loss of revenue, or, to put it in other words, if the company were free from this form of competition it could reduce its city fares to 6 cents and its interurban fares for two or more zones to 4 cents each, and still be as well off as it is to-day. If

the number of jitneys operating continues to increase as it has during the last three months for which figures are available, the cost to the street car riders will greatly exceed the figures given, and we will be faced with a complete demoralization of our local transportation facilities. If the public are disposed to encourage jitney competition it is proper for them to realize that they are indulging in an expensive luxury.

The situation is aptly described in a recent article by Mr. Delos F. Wilcox, of New York City: —

It is a particularly interesting development that now, just as we have come to give legal recognition to the theory of monopoly in public utility service, the practical conditions of monopoly which formerly surrounded the street railway business have been considerably modified. Street railways unquestionably render a necessary service to urban communities. It is also unquestionable that they can be operated more economically and can render better service to the public if the business is handled by a single agency in each separate urban community, but the development of private automobiles and of jitney busses has been so great in recent years as to make serious inroads upon the traffic on which the street railways must depend for their financial support. In other words, just as monopoly has received legal recognition, effective competition has been re-established by a different type of vehicle. The effect of automobile and jitney competition upon the present financial condition of the street railways and upon their financial prospects for the future is profound and, even from the public point of view, alarming. (National Municipal Review, January, 1919, p. 38.)

If the jitney problem has assumed a more acute phase in this state than in any other part of the country, it has doubtless been due, in part, to our local street railway conditions, although Massachusetts has by no means had a monopoly of high fares and poor service. This condition, however, is due mainly to the fact that Massachusetts has not kept pace with the rest of the country in subjecting jitneys to reasonable and proper regulation. It is significant that practically all the states and cities where the volume of jitney business has been largest in the past, have found it necessary to adopt stringent regulations which have resulted in decreasing the number of jitneys to a point where their operation no longer constitutes a serious menace to existing transportation agencies or to the public. The 1918 statute, which has already been briefly described, represents an attempt, in part at least, to bring our policy into line with legislative precedents in other states.

At the hearings held upon these petitions it was urged by counsel for certain of the petitioning street railway companies that the statute should be construed in the light of the accepted state policy of restricted competition amounting to practical monopoly in the operation of essential public utilities; that a street railway company, for instance, cannot invade a field already occupied by another street railway company unless the Commission finds that the construction and operation of this competitive road is required by public convenience and necessity; and that the Commission, in the exercise of a similar policy, should prohibit the operation of jitneys if the territory is already reasonably served by existing transportation facilities, or if the jitney competition seemed likely to result in seriously crippling the financial resources of the street railway companies and in making it impossible for them to furnish adequate service. It is true that such a policy is embodied in the statutes regulating the operation of jitneys in California, New York and other states, and is clearly recognized in the statute relative to the use of trolley motor vehicles in our own state, which expressly provides that approval for the operation of such vehicles shall not be granted "if the public service commission shall be of the opinion that the granting of the same would be unduly injurious to any street railway or trackless trolley line covering the same or substantially the same territory" (General Acts of 1916, chapter 266, section 5). We do not believe, however, that the statute now under consideration, in the absence of any express declaration, can reasonably be given such a construction. The policy of the statute appears to be to permit jitney competition subject to such rules and regulations in regard to operation as are reasonable and proper in the case of a common carrier.

If the jitney, however, is to be regarded, in the terms of the statute, as a common carrier affording "a means of transportation similar to that afforded by a street railway" it should reasonably enter the competitive field under something like equality of competitive conditions. In order to furnish transportation under conditions comparable to those of the street railway, it would be necessary for the jitneys at least to comply with the following conditions: —

They should furnish regular transportation at as frequent intervals and during as many hours of the day as the street railways, should carry passengers the same distances for the same fares, furnish free transfers to any part of the city on the same basis as the street railways, and provide half fares for school

children. They should also, like the street railways, be under direct public supervision and regulation in regard both to the fares charged and the service and facilities rendered.

They should also, in taking the place of the street railway and enjoying the privilege of using the city streets, contribute as much proportionately towards the maintenance of the streets and the payment of state and local taxes.

They should be under equally stringent rules in regard to safety of operation as the street railways, and they should furnish bonds to such an extent as would render claims for damages against their owners as certain of recovery as at present against the street railway companies.

It is clear from the mere statement of these conditions that there is no possibility of such conditions being met by the jitney operators. Many of the burdens and restrictions now imposed upon street railway companies could not as a practical matter, and perhaps should not, be imposed upon the jitney operators, but within reasonable limitations jitney regulations should be based upon the principle of fair competition. Under conditions now generally prevailing the jitney, however, is given an unfair advantage over its competitor in the transportation field.

Jitney service in general calls for little or no outlay of new capital, as it usually represents merely a new use for cheap automobiles already owned, partially worn out, frequently mortgaged, and having little sale value. Their owners pay little, either in the form of property or special taxes, there is little supervision with respect to safety of operation, and in case of serious accident, the average jitney owner would be financially unable to pay the damages awarded against him. Street railway companies in general furnish transportation over all lines and on a reasonably frequent headway during eighteen hours of each day and in all kinds of weather. Some trips on all lines and all trips on some lines are operated at a loss, but the obligation to furnish service under such conditions is an incident of their responsibilities as common carriers engaged in the performance of a public service. Jitneys, on the other hand, commonly confine their operation to short-haul, fair-weather business during the rush hours, and over the central, shorter, well-paved and most profitable routes. In other words, in the absence of adequate regulation, the jitneys are in effect permitted to operate when and how they please, and thus to obtain all the advantages without assuming any of the obligations of a common carrier.

If any reasonable attempt is made to meet the responsibilities of regulation imposed by the statute on local and state authorities, it would seem that the rules established for jitney operation should include as a minimum the following requirements: —

1. A regular schedule of operation over a specified route, with a stated charge for all passengers.
2. Proper regulations in the interest of safety of operation.
3. A bond of sufficient amount to meet the requirements of the 1916 statute.

In our opinion the schedule of operation should provide for a headway of not more than one hour between trips, and should cover a period of service, allowing a reasonable interval for meals, of at least twelve *consecutive* hours daily, between fixed termini and over a designated route. The designated route should be strictly adhered to and completely covered on each trip, and no change should be made in the schedule of operation, in the route or in the fares charged, except after reasonable notice to the local authorities.

In regard to safety of operation, it is proper to point out the anomaly in requiring the one-man street car to adhere to strict operating rules in the interest of public safety, and to be equipped with an expensive, automatic stop device and other safety appliances, while the one-man jitney operator under conditions where the hazard is probably greater is, in many cases, permitted to operate any kind of a vehicle in any condition of repair and in any manner he chooses. The rules and regulations which we believe to be reasonable and proper in order to promote greater safety of jitney operation, without imposing undue hardship upon the owners of such vehicles, are set forth in detail in the accompanying order, and as their purpose is obvious, no discussion of them seems necessary.

The question of the amount of the bond to be filed as security for claims on account of personal injury or property damage, was made the subject of extended argument at the hearings, by counsel representing the various parties. The bonds required by the local regulations now under review vary from nothing to \$10,000 for each vehicle operated. By the terms of the 1916 statute the amount of the bond or other security should be "in such sum as the city or town may reasonably require, conditioned to pay any final judgment obtained against the principal named in the bond for any injury to person or property, or damage for causing the death of any person by reason of any

negligent or unlawful act on the part of the principal named in said bond, his or its agents, employees or drivers in the use or operation of any such vehicle." The language of this provision clearly makes it obligatory on the regulating authorities to fix the bond at a reasonably adequate amount.

Counsel for the companies contended that the bonds prescribed by certain of the municipalities were wholly inadequate in amount, and that the bonds filed in many cases afforded little real security because the personal sureties upon the bonds approved by the city or town treasurer were not financially responsible. They therefore requested the Commission to fix the amount of the bond in a sum which would be sufficient to indemnify the public in case of serious personal injury or property damage, caused by negligent jitney operation, and that the surety on such bonds should in all cases be a proper surety company. Whatever merit there may be in the latter suggestion, the Commission is not satisfied that it has the authority under the statute to impose any such requirement.

The jitney operators, however, pointed out that it was impossible for them to obtain any bond from a surety company except upon deposit of practically full collateral, and that the requirement of a bond of large amount would result in driving them out of business. While this argument does not appear to be a convincing reason for relieving the jitney operators from any obligation which may reasonably be required in the public interest, we believe that the amount of the bond might wisely be kept as low as is consistent with due regard for public safety and the requirements of the statute.

Just what the amount of such bond should be is largely a question of judgment. After due consideration, we are of the opinion that it is not consistent to require a bond of uniform amount for all vehicles, irrespective of their size, and the number of passengers carried; that the amount of the bond for the ordinary car with a five-passenger capacity should be \$2,500, and that the amount of this bond should be increased by \$500 for each additional passenger which the vehicle is licensed to carry. An examination of the bond requirements in over a hundred cities in this and other states shows that the amount of the bond which we have prescribed is somewhat lower than the average, and that the requirements for bonds of substantially larger amount have not prevented the operation of a reasonable number of jitneys in other municipalities.

In addition to the regulations prescribed in the accompanying order, the different regulations prescribed by the local authorities in the various cities and towns to meet special local conditions are also approved. Local regulations of this character include the fixing of a reasonable annual license fee and reasonable fines or other penalties for the violation of any of the orders, rules and regulations, as amended hereby, which are lawfully in effect in respect to the operation of such vehicles, a determination of the total number of jitneys which shall be licensed, restrictions as to the period of the year within which they are to operate, the particular streets over which they will be permitted to run, or from which they will be excluded, limitations of time and place in regard to the standing of such vehicles in public streets or squares, the points of loading and unloading passengers, the permissible speed of operation and other traffic rules and ordinances.

Finally, it may be pointed out that no rules, prescribed either by the Commission or by the local authorities, can be self-operative, and that constant vigilance should be exercised both by the state and local authorities to see that the rules prescribed are consistently followed and enforced. We trust that the whole problem will be worked out with the same spirit of co-operation on the part of the municipalities and the various parties in interest that has been heretofore displayed. In the rules and regulations which we have prepared we have endeavored to provide for the greatest amount of convenience and safety to the public combined with the minimum of burden on the jitney operators. Of course experience may show that certain of these rules and regulations may have to be modified or changed and the Commission will be glad to entertain applications therefor as occasion may arise after a reasonable trial of the regulations herein prescribed.

ORDER.

It appearing that public hearings upon the said petitions have been duly notified and held and that a full investigation of the matters and things involved has been had, and that the Commission on the date hereof has filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof; it is

Ordered, That the orders, rules and regulations prescribed or adopted by the licensing authorities in each of the cities of Malden, Lynn, Salem, Lawrence, Haverhill, Newburyport,

Brockton and New Bedford and in each of the towns of Nahant and Swampscott in respect to the operation of motor vehicles, except trackless trolley vehicles, so-called, upon any public street or way for the carriage of passengers for hire in such a manner as to afford a means of transportation similar to that afforded by a street railway, by indiscriminately receiving and discharging passengers along the route on which such vehicles are operated, be hereby amended by the insertion or substitution of the following orders, rules and regulations, except in so far as the same have already been prescribed or adopted in any of said cities or towns; that all orders, rules and regulations in conflict therewith which have been adopted or prescribed in any and all of said cities or towns be hereby disapproved, superseded and annulled; and that all other orders, rules and regulations in respect to the operation of such motor vehicles which have been prescribed or adopted in any and all of said cities and towns be hereby approved.

1. No person, firm or corporation shall engage in the business of operating any such motor vehicle within or into any part of any of said cities or towns without first obtaining from the licensing authorities of such city or town a special license for each and every vehicle to be employed by such person, firm or corporation in said business, and unless such license for such vehicle is in force according to the provisions of and subject to these regulations.

2. Every applicant for a license to operate any such motor vehicle shall file with the city or town clerk a written application which shall set forth:—

(a) The public highway or highways over which, and the fixed termini and the regular route between which and over which the applicant intends to operate.

(b) A schedule of operation in conformity with paragraph 10 hereof, showing the effective date thereof, the time of arrival and departure from and at all termini, and time of departure from important intermediate points.

(c) A schedule or tariff showing the passenger fares to be charged between the several points or localities to be served.

(d) The seating capacity, according to its trade rating, of each motor vehicle which it is proposed to operate. If the motor vehicle has been adapted for use as a bus either by converting a freight-carrying truck into a passenger-carrying vehicle, or by reconstructing, modifying or adding to the body

or seating arrangement of a passenger-carrying motor vehicle, a statement of the seating capacity shall be added.

3. Before such license is granted the vehicle shall be inspected by a competent mechanic designated by the licensing authorities of said city or town, or their authorized representatives, and no license shall be issued until such inspection has been made, and a report rendered as to the strength, seating capacity and proper equipment of such vehicle for safe and efficient operation. After such license has been granted, a similar inspection and report shall be made at least once every six months. Every such vehicle shall be maintained at all times in a safe and sanitary condition, and shall be at all times subject to the inspection of the licensing authorities or their duly authorized representatives.

4. No person shall drive, operate or be in charge of any such motor vehicle in any street, way, or public place in any of said cities or towns without first obtaining, in addition to the chauffeur's license issued by the Massachusetts Highway Commission, a special annual chauffeur's license therefor from the licensing authorities of such city or town and unless both of such licenses are in force. No such special license shall be granted to any person who is under the age of twenty-one years, or who has not demonstrated to the satisfaction of said licensing authorities his ability to drive the vehicle proposed to be operated by him, and his familiarity with the motor-vehicle laws of the Commonwealth, with the rules and regulations herein prescribed and with the street traffic regulations of such city or town, or who has failed to pass such examination as to his qualifications as said licensing authorities may require. No license shall be issued until said licensing authorities or their duly authorized representatives are satisfied that the applicant is a proper person to receive it. Said licensing authorities at the time of issuing said license shall deliver to the licensee a metal badge properly inscribed, which badge shall be worn in a conspicuous place on the outer garment of the licensee at all times when he is driving or in charge of any such motor vehicle in any street or public place; and said licensing authorities shall also deliver to the licensee an identification card, stating thereon the number of the license, the licensee's age, height, weight, color of hair, color of eyes, and the term of the license. No such license shall permit any other person to wear such badge, nor shall any person wear the badge of any other licensee while driving or in charge of any

such motor vehicle while in any street or public place. Said identification card shall be carried by the licensee at all times while operating or in charge of any such motor vehicle in any street or public place. Every person while driving or in charge of any such motor vehicle while in any street or public place, shall carry the license for such vehicle, and at any time when requested by any police officer, he shall show him such license and said identification card.

5. No such motor vehicle shall be used or operated without a printed sign thereon stating the termini of the route, the fare to be charged and the license number, which sign shall be so printed and attached to the motor vehicle as to be plainly visible to persons on the street, or without a printed sign thereon showing the schedule of service filed and in effect at the time, which sign shall be so printed and attached to the said motor vehicle as to be plainly visible to passengers boarding such motor vehicle.

6. No license for the operation of any such motor vehicle shall be issued or granted for a period exceeding one year, and shall not become operative until the licensee named therein shall deposit with the treasurer of the city or town in which such vehicle is to be operated, security, by bond or otherwise, approved by the city or town treasurer, conditioned to pay any final judgment obtained against the principal named in the bond for any injury to person or property, or damage for causing the death of any person by reason of any negligent or unlawful act on the part of the principal named in said bond, his or its agents, employees or drivers, in the use or operation of any such vehicle. The security deposited under the provisions of this paragraph shall be in the sum of twenty-five hundred dollars for a motor vehicle having a seating capacity of five persons or less, and for a motor vehicle having a seating capacity of six or more in the sum of twenty-five hundred dollars and five hundred dollars additional for each passenger seat in excess of five, provided that any licensee who files with the city or town clerk a certificate from a city or town clerk in any city or town in which said motor vehicle is duly licensed to operate, setting forth that said licensee has filed in said city or town a bond which is in accordance with the provisions of this paragraph, shall be exempted from filing any further bond.

7. The license issued for the operation of such motor vehicle shall designate the number of passengers, exclusive of the operator, the licensee is authorized to carry in said vehicle, and no

person driving or in charge of said vehicle shall take on or suffer or permit any more persons to ride or to be carried thereon at any one time than the number designated in the license, nor permit any person to stand inside, or to stand or sit upon any running board, step, fender, dash or hood thereof, or to permit any person to ride on such motor vehicle outside the body thereof; provided, however, that in addition to the number of passengers which said motor vehicle, by the terms of its license is permitted to carry, children under seven years of age may be carried therein, in arms, or seated on the laps of parents or adult persons accompanying them, but no passenger with a child in arms or seated on the lap shall be permitted on any front seat of the vehicle.

8. The licensee shall not reconstruct, materially alter, modify or add to the body or seating arrangements of any such motor vehicle after the license thereof is issued, without first applying for and receiving the consent of the licensing authorities.

9. No license shall be transferable or applicable to any other motor vehicles than those specified therein, or between any other termini or on any other route or routes, provided, however, that the licensing authorities may, upon application filed with the city or town clerk, revise said license in accordance with the provisions of these regulations, so that under said license as revised another motor vehicle may be substituted for one previously covered; or either the termini or the route or routes set forth in the license may be changed.

10. The schedule of operation filed by the licensee with his application for said license shall provide for the regular operation of a motor vehicle between the termini and over the route designated in the license for a period of not less than twelve consecutive hours out of every twenty-four hours, allowing a reasonable time, not exceeding two hours in the aggregate, for going to and from meals, and with intervals of not more than one hour between successive trips in the same direction where the distance between termini is 5 miles or less. The licensee shall regularly operate a motor vehicle in substantial accordance with the schedule of operation filed and in effect at the time, except in cases of accidents, break-downs or other controlling emergency, shall operate such motor vehicle to the terminus of the route before turning around, and shall not operate nor permit to be operated any such motor vehicle off or away from the route stated and fixed in the license for the operation of such motor vehicle except in case of controlling emergency. Nothing herein shall be con-

strued to prohibit the operation, in addition to the service described in the schedule on file and in effect at the time, of special or extra trips over said route and between said termini during certain hours or on special occasions.

11. No licensee shall charge, demand, collect or receive a greater, or less, or different compensation for the transportation of passengers or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in the schedule filed and in effect at the time.

12. No change shall be made by any licensee in the termini between which or the route over which such motor vehicle is operated, in the rates charged, or in the schedule of operation, except after seven days' notice to the clerk of each city or town in which such change is to be made effective.

13. No person operating any motor vehicle so licensed shall refuse to carry any person offering himself or herself at any regular stopping place for carriage, unless the seats of such vehicle are fully occupied, or unless such person is in an intoxicated condition, or conducting himself in a boisterous or disorderly manner, or is using profane language.

14. No motor vehicle so licensed shall be operated from one-half hour after sunset till one-half hour before sunrise, with the top and curtains of said vehicle up, or while said vehicle is otherwise enclosed, unless there be sufficient light provided to adequately light the whole of the interior of said vehicle; and all motor vehicles so licensed with a seating capacity of more than seven passengers shall come to a full stop immediately before crossing the tracks of any railroad at grade.

15. Every such motor vehicle shall be equipped with a suitable horn or other similar warning device, with a standard speedometer, and with a liquid fire extinguisher of a design or type approved by the licensing authorities, and such horn, speedometer and fire extinguisher shall be kept in satisfactory operating condition at all times. Every such motor vehicle shall, when leaving either terminus, be equipped with at least one extra serviceable tire, and shall at all times carry and maintain in good working order a set of skid chains, which shall be applied to the rear wheels when such vehicle is operated in any street or public place where there is snow or ice, or during other weather conditions when the application of such chains is necessary to prevent skidding.

16. No person operating any motor vehicle so licensed shall collect fares, make change or take on or discharge passengers

while such vehicle is in motion; nor shall he have a lighted cigarette, cigar or pipe in his possession while any passenger is being carried therein, nor drink any intoxicating beverage or use morphine, cocaine, opium or other harmful drug of any kind, or be under the influence thereof while engaged in operating such vehicle.

17. Any such licensee shall immediately report fully, in writing, to the city or town clerk, any fatal accident or any injury to a passenger or other person, and any accident resulting in substantial damage to property, in which said motor vehicle is involved.

18. The licensing authorities may suspend or revoke any license granted for the operation of such motor vehicle, and any license issued to any person to drive or operate the same, for violation of any law of the commonwealth made in relation to the operation of motor vehicles, or violation of any traffic ordinances of such city or town, or violation of any of the rules, restrictions, requirements or regulations herein prescribed, or for any other cause deemed by said selectmen, in the exercise of reasonable discretion, to be sufficient.

19. The holding or adjudication of any paragraph or subdivision of the rules and regulations herein prescribed to be unconstitutional or invalid shall not affect the validity of any other paragraph or subdivision, but all other paragraphs and subdivisions shall be and remain in full force and effect.

By the Commission,

ANDREW A. HIGHLANDS,

Secretary.

Petition of the Connecticut Valley Street Railway Company for approval of the acquisition and operation of motor vehicles for the transportation of passengers between the towns of Greenfield and Montague.

After notice and hearing and full consideration, —

It is

Ordered, That the approval of the Commission be hereby given, in accordance with the provisions of chapter 226 of the General Acts of 1918, to the acquisition and operation of motor vehicles by the Connecticut Valley Street Railway Company in the towns of Greenfield and Montague, from the railroad station in Greenfield to Avenue A at Second street in the village of Turners Falls in Montague, with a reverse route, beginning at

said Avenue A and Second street, via Avenue A and Seventh street in Montague and the Turners Falls road, High and Main streets to the railroad station in Greenfield, as provided in orders adopted by the selectmen of the towns of Greenfield and Montague on May 19, 1919, and May 27, 1919, respectively, copies of which orders are on file in this office, and in accordance with regulations prescribed by said towns.

Attest: ANDREW A. HIGHLANDS,
JUNE 18, 1919. [P. S. C. 2426] Secretary.

Petition of the Connecticut Valley Street Railway Company for approval of the acquisition and operation of motor vehicles for the transportation of freight between Northampton and Springfield, through Holyoke.

Memorandum.

A hearing was held upon this matter August 21, 1918. There was considerable opposition to the granting of this petition by the city of Holyoke and the town of West Springfield. The petitioner stated at the hearing that if the Northampton and the Holyoke street railway companies were granted authority to carry freight, baggage and express matter, in street cars, it would not press the pending petition. As permission has been granted to these street railways on this date, this petition is filed without prejudice.

Attest: ANDREW A. HIGHLANDS,
APRIL 16, 1919. [P. S. C. 2149] Secretary.

[P. S. C. 2467]

Petition of William O. McGowan et al., in their own behalf and as agents for and in behalf of Division 235 of the Amalgamated Association of Street and Electric Railway Employees of America, appealing from certain regulations governing the operation of jitneys in the city of Brockton.

[P. S. C. 2470]

Petition of Eastern Massachusetts Street Railway Company appealing from certain regulations governing the operation of jitneys in the city of Brockton.

These are petitions appealing from the action of the Board of Aldermen of the city of Brockton in adopting section 7 of the ordinance entitled, "An Ordinance Further Amending Chapter

XIX of the Revised Ordinances," adopted July 28, 1919. Section 7 is as follows: —

SECTION 7. No license for the operation of any such motor vehicle shall be issued or granted for a period exceeding one year and shall not become operative until the licensee named therein shall deposit with the treasurer of the city of Brockton security, by bond or otherwise, approved by the city treasurer, conditioned to pay any final judgment obtained against the principal named in the bond for any injury to person or property or damage for causing the death of any person by reason of any negligent or unlawful act on the part of the principal named in said bond, his or its agents, employees or drivers, in the use or operation of any such vehicle. The security deposited under the provisions of this paragraph shall be in the sum of five hundred dollars for a motor vehicle having a seating capacity of five persons or less, and for a motor vehicle having a seating capacity of six or more, in the sum of five hundred dollars and one hundred dollars additional for each passenger seat in excess of five, provided that any licensee who files with the city clerk a certificate from the city or town clerk in any city or town in which said motor vehicle is duly licensed to operate, setting forth that said licensee has filed in said City or Town a bond which is in accordance with the provisions of this paragraph, shall be exempted from filing any further bond.

At the hearing the sole objection made by the petitioners to the section was the inadequacy of the bond, or other security, required thereunder. It was contended by counsel for various persons operating motor vehicles in Brockton that the petitioners were not persons or corporations, within the meaning of General Statutes 1918, chapter 226, authorized to appeal to the Public Service Commission, and that the provisions of section 7, so far as they related to the amount of the bond, or other security, were not regulations within the meaning of that statute, and that consequently the Commission had no jurisdiction in the premises.

It is unnecessary to determine these questions. In an opinion given by the Attorney-General July 14, 1919, this Commission was advised that, upon appeal under the provisions of General Statutes 1918, chapter 226, the Commission was limited to either approving or disapproving the orders, rules and regulations adopted by a city or town. The Attorney-General also stated that he was of the opinion "that it was not the intention to interfere with the power of the local communities, accepting the provisions of said chapter 293,¹ to regulate in such manner as they may determine the operation of motor vehicles coming

¹ General Acts, 1916, 293.

within the provisions of the act, provided such regulations are not found to be unreasonable by the Public Service Commission upon appeal." As we feel constrained to follow the opinion of the Attorney-General we cannot say that the provisions of the section are unreasonable in the sense that the word is used in his opinion.

It is therefore

Ordered, That the petitions be dismissed.

Attest: ANDREW A. HIGHLANDS,

Secretary.

Petitions of Patrick J. Harrington and Ulysses J. A. Matton, both of Salem, relative to modification of regulations with respect to age limit of jitney operators.

Memorandum.

The Commission, in its order of April 3, 1919, promulgating rules and regulations governing the operation of jitneys, provided that special jitney licenses should not be issued by local licensing authorities to persons under 21 years of age. The petitioners in this case, who are under that age, are applicants for such licenses in the city of Salem and desire relief from this requirement by a modification of the Commission's order.

Action on the petitions has been withheld pending the receipt of an opinion of the Attorney-General as to the authority of the Commission to prescribe rules and regulations governing jitney operation in cases of appeal filed under the provisions of chapter 226 of the General Acts of 1918. In an opinion dated July 14, 1919, the Attorney-General held that under the terms of this statute the authority of the Commission in such cases is limited to either approving or disapproving the orders, rules and regulations adopted by the local authorities.

It would appear, therefore, that the Commission lacks jurisdiction in this proceeding, and that if the local regulations of Salem place restrictions upon the age of jitney operators, relief should be sought from the licensing authorities.

Attest: ALLAN BROOKS,
OCTOBER 7, 1919. [P. S. C. 2193] *Assistant Secretary.*

OPERATION — RAILROAD.

Petition of the Union Freight Railroad Company for certificate for operation of a section of its railway in Boston.

Examination having been made of a section of the Union Freight railroad in Boston, —

It is

Ordered, That the Commission hereby certify that all laws have been complied with preliminary to the operation of a section of the Union Freight railroad in Boston, consisting of single track, extending from a connection with its main line in Atlantic avenue in and along Northern avenue and over the Northern avenue bridge to a connection with existing tracks of the New York, New Haven and Hartford railroad, the total length of said track being about 896.2 feet, and that the railway appears to be in a safe condition for operation.

Attest: ANDREW A. HIGHLANDS,

APRIL 3, 1919. [P. S. C. 2390]

Secretary.

Petition of the Board of Street Commissioners of the city of Boston for approval of regulations governing the operation of trains by the Union Freight Railroad Company in Boston.

After consideration, — it is

Ordered, That the regulations of the board of street commissioners of the city of Boston, established by an order of said board adopted June 30, 1919, governing the operation of cars and trains of the Union Freight Railroad Company in the city of Boston for the period ending July 1, 1920, a copy of which order is on file in this office, be hereby approved.

Attest: ANDREW A. HIGHLANDS,

JULY 30, 1919. [P. S. C. 2253]

Secretary.

Petition of the Fore River Railroad Corporation for certificate preliminary to the operation of its railroad in Braintree and Quincy.

Examination having been made of the railroad of the Fore River Railroad Corporation in Braintree and Quincy, —

It is

Ordered, That the Commission hereby certify that all laws have been complied with preliminary to the operation of the railroad of the Fore River Railroad Corporation in Braintree and Quincy, consisting of a single track, extending from a connection with a side track of the South Shore branch of the New York, New Haven and Hartford railroad in East Braintree, to the plant of the Fore River Shipbuilding Corporation in Quincy, a length of 1.74 miles of main track and .31 mile of side track, together with certain spur tracks appertaining thereto upon land of said Shipbuilding Corporation, aggregating 4.29 miles of single track, and that the railway appears to be in a safe condition for operation.

Attest: ANDREW A. HIGHLANDS,

MAY 1, 1919. [P. S. C. 2397]

Secretary.

OPERATION — STREET RAILWAY.

Petition of the Boston Elevated Railway Company for certificate preliminary to the operation of surface tracks at the temporary terminal of its Everett extension at Bowdoin street in the city of Everett.

Examination having been made of a section of Boston Elevated railway surface tracks in the city of Everett, —

It is

Ordered, That the Commission hereby certify that all laws have been complied with preliminary to the operation of a section of Boston Elevated railway surface tracks in Everett, consisting of a connection with the tracks of the West End street railway on Broadway at Bowdoin street, and extending on private land at what is known as the Everett temporary station, the single inbound track on the southerly side of the station looping on a trestle constructed over the rapid transit lines, and a second main track on the northerly or outbound side of the station opposite the outbound platform, with a short section of second main track on the inbound side and a temporary spur track, the total length of said track being about 3,718 feet; measured as single track, and that the railway appears to be in a safe condition for operation.

Attest: ANDREW A. HIGHLANDS,
MARCH 11, 1919. [P. S. C. 2378] Secretary.

Petition of the City of Attleboro for certificate preliminary to the operation of that part of the street railway line formerly owned and operated by the Taunton and Pawtucket Street Railway Company in Attleboro, acquired by said city.

After consideration, examination having been made of a section of street railway line in Attleboro, —

It is

Ordered, That the Commission hereby certify that all laws have been complied with preliminary to the operation of a sec-

tion of street railway formerly known as the Taunton and Pawtucket street railway, consisting of main line and sidings extending from Monument Square through Emory and Park streets to Briggs Corner, thence through Oak Hill avenue to a point near Reynolds street, the total length of said line, measured as single track, being 20,844 feet, and that the railway appears to be in a safe condition for operation.

Attest: ANDREW A. HIGHLANDS,

MAY 24, 1919. [P. S. C. 2260]

Secretary.

Petition of the Interstate Consolidated Street Railway Company for approval of contract relative to the operation of cars in the city of Attleboro.

It appearing, after notice and hearing, that the City of Attleboro, acting under the provisions of chapter 187 of the Special Acts of 1918, has acquired that part of the street railway line formerly owned and operated by the Taunton and Pawtucket Street Railway Company located in Monument square, Pleasant street, Emory street, Park street and Oak Hill avenue from Briggs Corner to Handy street in said city; that, on March 10, 1919, an agreement was made by the City of Attleboro and the Interstate Consolidated Street Railway Company providing for the operation by the Interstate Consolidated Street Railway Company of said street railway line so acquired by the City of Attleboro, and that the terms of said agreement are consistent with the public interests,—

It is

Ordered, That the approval of the Commission be hereby given to the above named agreement, a copy of which is on file in this office.

Attest: ANDREW A. HIGHLANDS,

MAY 1, 1919. [P. S. C. 2393]

Secretary.

SIGNALS — RAILROAD OR RAILWAY.

Petition of the Boston and Maine Railroad for further extension of time for replacing ball signals at Ayer, East Northfield, Winchendon and Mystic Wharf.

After consideration, good cause having been shown, —

It is

Ordered, That the time for replacing the so-called “ball signals” at Ayer (east of the station) East Northfield, Winchendon and Mystic Wharf be hereby extended to July 1, 1920, and that the approval of the Commission be hereby given to the operation of such signals at said points until said date.

Attest: ANDREW A. HIGHLANDS,
APRIL 17, 1919. [P. S. C. 570] *Secretary.*

Petition of the Boston and Maine Railroad for further extension of time for the replacing of ball signals at South Lawrence.

After consideration, good cause having been shown, —

It is

Ordered, That the time for replacing the so-called “ball signals” at South Lawrence (northeast corner of triangle) be hereby further extended to January 1, 1920, and that the approval of the Commission be hereby given to the operation of such signals at said points until said date.

Attest: CHARLES E. MANN,
FEBRUARY 4, 1919. [P. S. C. 570] *Executive Secretary.*

STATIONS AND STATION ACCOMMODATIONS.

Petition of the City of Revere for the establishment of a passenger station on the Boston and Maine railroad at Beach street and at Revere street in said city.

In 1915, the Board of Trade of Revere petitioned this Commission to have the present passenger station in Revere moved to Beach street. The Commission, after a hearing, rendered its decision thereon, on November 19, 1915 (P. S. C. 131). As the conditions upon which this decision was based have not materially changed since that time, so much of the petition as relates to the establishment of a station at Beach street is dismissed.

Concerning that part of the petition which relates to the establishment of a passenger station at Revere street, it appears that the point where it is desired to locate the station is about a mile north of the present railroad station. This section is now served by the Eastern Massachusetts street railway which has a line of cars operating in Revere street to and from Boston on a half-hourly period during the day with a 15-minute or less period headway during the morning and evening rush hours. The Revere station of the Boston, Revere Beach and Lynn railroad is also located about 1,000 feet from the location of the proposed station desired by the petitioners and it operates a 10 and 15 minute service throughout the day to and from Boston, with a somewhat less fare than would be charged by the Boston and Maine Railroad.

The petitioners complained at the time of the hearing that the service on the Bay State, now the Eastern Massachusetts street railway, to and from Boston was poor and that the terminal of the Boston, Revere Beach and Lynn railroad was not convenient to many of the petitioners whose places of business are on the northerly side of Boston. So far as the service on the Eastern Massachusetts street railway is concerned, that matter should be taken up with the board of trustees now operating the road, who are vested with authority in such matters. So far as the desire of the petitioners to go to the northerly side of Boston is

concerned, that privilege is now afforded them by the Eastern Massachusetts Street Railway Company, whose cars are operated to the North Station and Scollay Square. Concerning the service furnished by the Boston, Revere Beach and Lynn Railroad into Boston, the terminal of this company is as near the business center of the city as is that of the Boston and Maine Railroad.

In view of the above, it does not seem to the Commission that with the transportation facilities which are available to this community, it would be justified in ordering the establishment of a station on the Boston and Maine railroad at Revere street, and this part of the petition is also dismissed.

For the Commission,

ALLAN BROOKS,

NOVEMBER 29, 1919.

[P. S. C. 2358]

Assistant Secretary.

RAILROAD.

Petition of the City Council of Woburn relative to the conditions at the passenger station of the Boston and Maine Railroad in that city.

The passenger station on the Woburn loop of the Boston and Maine railroad in the city of Woburn is situated on the easterly side of the loop and adjacent to the outbound track. There is also a covered platform opposite the station and adjacent to the inbound track. Access to the station and the covered platform is afforded by Pleasant street and Church avenue, two highways less than four hundred feet apart, which cross the railroad tracks at grade, one near the northerly end and the other near the southerly end of the station. At present, passengers inbound to Boston board trains from the covered platform, and outbound passengers leave trains on the side towards the station. Under this arrangement, inbound passengers from both the east and the west side who have occasion to go to the station to purchase tickets, or for shelter, are obliged to cross both tracks in order to board the trains. This practice is fraught with danger, and several fatal accidents have occurred.

We believe that in the interest of greater safety of operation, the approaches to the covered platform on the westerly side of

the tracks should be fenced off, and passengers should be required, as is commonly done under like conditions, to board and leave both inbound and outbound trains on the side towards the station. If this were done, passengers from the west side would cross the tracks on Pleasant street or Church avenue, where crossing protection is afforded by means of gates, and would approach the station on the easterly side of the tracks, and all passengers would be required to cross the outbound track only to board inbound trains but would do so under the protection of Rule 106 of the "Rules for the Government of the Operating Department" of the company, under which another train would be prohibited from approaching the station on the outbound track while passengers were boarding the inbound train. While this method of operation would involve some slight inconvenience to passengers from the west side who do not have occasion to enter the station, this inconvenience is outweighed by the increased convenience to other passengers, and the fact that danger to patrons of the road at this station, though not wholly eliminated, is reduced to a minimum. We have therefore conferred with the officials of the company with a view to having these changes put into effect, and as the company has signified its readiness to make such changes as soon as practicable, the entry of an order at this time is unnecessary.

For the Commission,

ANDREW A. HIGHLANDS,

MARCH 7, 1919. [P. S. C. 2336]

Secretary.

Petition of residents of Dorchester relative to need of certain changes affecting the safety and convenience of the patrons using the Bird street station of the New York, New Haven and Hartford railroad in the city of Boston.

At the hearing on this petition, it developed that Bird street, a public way, crosses the tracks of the New York, New Haven and Hartford railroad at grade near the Bird street station, and that the changes desired by the petitioners involve the abolition of this grade crossing and the relocation of the station. It was pointed out that proceedings for the abolition of this grade crossing must, under the statute, be initiated by a peti-

tion filed in the Superior Court by the railroad company or the city council of Boston and that the approval of the city council would also be required for the relocation of the station. As the Commission is without jurisdiction in the premises, —

It is

Ordered, That the petition be dismissed.

By the Commission,

ANDREW A. HIGHLANDS,

JUNE 19, 1919. [P. S. C. 2423]

Secretary.

Petition of Ward 7 Good Government Association concerning the re-opening of Chickering station, Back Bay, Boston, on the New York, New Haven and Hartford railroad.

Some years ago when trains of the Providence Division of the New York, New Haven and Hartford railroad operated into the old Park Square station, there was a station on this line at Gainsborough street known as Chickering station, which was discontinued in 1896. When the old Park Square station was discontinued, trains of the Providence Division of this road were operated into the present South Terminal station, and a new station was erected at Dartmouth street, known as the Back Bay station, to accommodate patrons of the road desiring to take or leave trains in this vicinity. The present Back Bay station is about 3,500 feet east of the old Chickering station. To utilize the present Chickering station would necessitate extensive alterations and repairs to the same and reconstruction to provide platforms sufficient to accommodate trains that are now operated on this line. There are four main tracks at this location with a yard just west of the same, and trains are obliged to pull up in front of the station to switch cars in this yard. To maintain a station at this place would also require a station on the opposite side of the track to accommodate both inbound and outbound traffic, the acquisition of valuable land and the rearrangement of switches, tracks and towers, all of which would involve a large expenditure of money, which, in the opinion of the Commission, would not be justified under existing conditions.

In view of the above, together with the general suburban traffic conditions on this line at present and the proximity of

this station to the present Back Bay station, the Commission does not believe that the re-opening of the Chickering station is justified, and the petition is therefore dismissed.

By the Commission,

NOVEMBER 29, 1919.

[P. S. C. 2424]

ALLAN BROOKS,
Assistant Secretary.

Complaint of Senator Silas D. Reed of Taunton concerning the closing of Cranes Station on the New York, New Haven and Hartford railroad.

Memorandum.

Following a conference on this matter held June 18, 1919, the company agreed to an adjustment, satisfactory to the complainants, as indicated in a letter addressed to the Commission by Mr. R. D. Fitzmaurice, Assistant General Superintendent of the New York, New Haven and Hartford Railroad Company, dated June 25, 1919, and filed herewith. The complaint is therefore placed on file.

Attest: ANDREW A. HIGHLANDS,
JUNE 27, 1919. [P. S. C. Comp. 1652] *Secretary.*

STREET RAILWAY.

Petition of the Boston Elevated Railway Company for an extension of time for the construction of the subway and appurtenances in connection with the establishment of permanent terminal facilities for the operation of an elevated railway in Everett.

After public hearing and full consideration, —

It is

Ordered, That the Commission hereby extend, until July 1, 1919, the time within which the Boston Elevated Railway Company is required, under the provisions of chapter 777 of the Acts of 1913, as amended by chapter 364 of the Special Acts of 1917, to begin the construction of the subway and appurtenances in connection with the establishment of permanent terminal facilities for the operation of an elevated railway in the city of Everett, the construction of the same to be com-

pleted within eighteen months thereafter, and that the Boston Elevated Railway Company be hereby further required to submit detailed plans thereof to the Commission on or before May 1, 1919.

Attest: ANDREW A. HIGHLANDS,
JANUARY 9, 1919. [P. S. C. 767] Secretary.

Petition of the Boston Elevated Railway Company for further extension of time for the construction of the subway and appurtenances in connection with the establishment of permanent terminal facilities for the operation of an elevated railway in Everett.

It appearing, after public hearing and full consideration, that the company is unable at the present time to obtain capital on reasonable terms in order to provide funds for the construction of permanent terminal facilities in Everett, —

It is

Ordered, That under the provisions of chapter 777 of the Acts of 1913, as amended by chapter 364 of the Special Acts of 1917, the Commission hereby further extend the time within which the Boston Elevated Railway Company is required to begin the construction of the subway and appurtenances in connection with the establishment of permanent terminal facilities for the operation of an elevated railway in the city of Everett to July 1, 1920.

Attest: ANDREW A. HIGHLANDS,
JULY 21, 1919. [P. S. C. 767] Secretary.

Petition of the Boston Elevated Railway Company for approval of plan numbered 35813 showing proposed derailing switch, decelerating track and platform changes at its Everett station in Everett.

The annexed plan marked "Boston Elevated Railway Everett Extension, Everett Station Proposed Derailing Switch Decelerating Track & Platform Changes, May, 1919," and numbered 35813, being a modification or change of plan numbered 35811, approved November 1, 1917, and plan numbered 15551, approved January 14, 1918, is hereby approved.

FREDERICK J. MACLEOD,
EVERETT E. STONE,
MAY 26, 1919. [P. S. C. 2414] Commissioners.

Petition of the Boston Elevated Railway Company for approval of plan showing proposed additional shelters at the Everett station.

The annexed plan, numbered 35817, showing proposed additional shelters at the Everett station of the Boston Elevated Railway Company in the city of Everett, said plan being a modification or change of plan numbered 35813, approved by the Commission on May 26, 1919, is hereby approved, consent being given to the changes shown.

FREDERICK J. MACLEOD,
EVERETT E. STONE,
HENRY C. ATTWILL,

OCTOBER 24, 1919.

[P. S. C. 2494]

Commissioners.

Petition of the Boston Elevated Railway Company for approval of proposed locations of parcel checking cabinets at certain elevated, subway and tunnel stations.

After consideration, —

It is

Ordered, That the approval of the Commission be hereby given to the location of parcel checking cabinets at the following stations of the Boston Elevated railway: —

Sullivan square station — surface level;
Sullivan square station — elevated level;
North station west;
Canal street station;
Park street station;
Boylston street station — entrance to northbound cars;
Park street under — entrance lobby;
Dudley street station — southbound and west loop;
Dudley street station — surface level;
Dudley street station — east loop;
State and Devonshire stations — lobby, street level;
Milk station — Devonshire street exit and entrance;
Winter station;
South station under;

as described in the petition and shown on plans on file therewith in this office.

Attest: ANDREW A. HIGHLANDS,

APRIL 11, 1919. [P. S. C. 2391]

Secretary.

SUNDAY TRAINS AND BOATS.

*Petition of the Boston and Yarmouth Steamship Company, Ltd.,
for authority to run steamboats on the Lord's day.*

It appearing, after consideration, that the public necessity, convenience, health and welfare may reasonably require, within the meaning and intent of the statute, the running of the steamboats of the petitioner within the waters of the commonwealth on the Lord's day, —

It is

Ordered, That authority be hereby given to the Boston and Yarmouth Steamship Company, Ltd., to run steamboats within the waters of the commonwealth on the Lord's day during the year ending June 1, 1920, as set forth in the petition, with the understanding that the petitioner shall perform, in connection therewith, as a consequence of the authority herein granted, only such work as may prove to be necessarily incident to the running of said steamboats as aforesaid, subject, however, to the following conditions: —

1. Within the jurisdiction covered by this order no intoxicating liquors shall be sold or furnished, and no disorderly conduct, gaming or other sport be permitted, either upon said steamboats or upon the premises owned or controlled by said petitioner.

2. The Commission reserves the right to revoke the authority hereby given at any time in its discretion, without previous notice to said petitioner.

Attest: ANDREW A. HIGHLANDS,
MAY 28, 1919. [P. S. C. 2091-D] *Secretary.*

By similar orders, schedules of regular Sunday boats, deemed to be necessary for the public accommodation, have been authorized as follows: —

Eastern Steamship Company and Merchants and Miners Transportation Company.

*Petition of the Boston and Maine Railroad for authority to operate
Sunday trains.*

After consideration, — it is

Ordered, That the Boston and Maine Railroad be hereby authorized to run on the Lord's day during the period ending December 31, 1919, the trains specified in the petition dated April 22, 1919, and accompanying schedules, subject to the following conditions: —

1. No train shall be run as an excursion train.
2. The rates of fare on the passenger trains shall in no case be less than those charged on regular week-day trains between the same stations.

All previous orders authorizing the running of trains on the Lord's day on the Boston and Maine railroad are hereby revoked, such revocation to take effect when the above-named schedules are put in force.

Attest: ANDREW A. HIGHLANDS,

APRIL 24, 1919. [P. S. C. 2022-C]

Secretary.

By similar orders, schedules of regular Sunday trains, deemed to be necessary for the public accommodation, have been authorized on the Boston and Maine railroad [P. S. C. 2022-D, 2022-E], Boston, Revere Beach and Lynn railroad [P. S. C. 2091-AA], and the New York, New Haven and Hartford railroad [P. S. C. 2011-A, 2011-B].

TAXATION.

STREET RAILWAY.

Petition of the Connecticut Valley Street Railway Company for a revision of the amount of the excise tax to be paid by said company.

Upon the foregoing petition, and after a public notice and a hearing, at which the selectmen and aldermen of the towns and cities named in said petition were given an opportunity to submit evidence, and all the parties hereto, except the City of Northampton, having agreed that the average annual cost to each of said cities and towns for the work done by it during the preceding three years, under the provisions of chapter 463 of the Acts of 1906 which they were not by law required to do prior to October 1, 1898, was less than the average annual payments made by said company to each of said cities and towns under the provisions of chapter 490, Part III, sections 39-51, inclusive, of the Acts of 1909, and that a tax of one per cent upon the gross receipts of said company will yield to each of said cities and towns annually an amount equal to said average annual cost to said cities and towns for the preceding three years, and the Commission having found, after said hearing and investigation, as a fact that the average annual cost to the City of Northampton for the work done by it during the preceding three years, under the provisions of chapter 463 of the Acts of 1906 which it was not by law required to do prior to October 1, 1898, was less than the average annual payments made by said company to it under the provisions of chapter 490 of Part III, sections 39-51, inclusive, of the Acts of 1909, and that a tax of one per cent upon the gross receipts of said company will yield to it an amount equal to said average annual cost to it for the preceding three years, —

It is hereby determined that the average annual cost to each of said cities and towns named in said petition for the work done by it during the preceding three years, under the provisions of chapter 463 of the Acts of 1906 which by law it was not

required to do prior to October 1, 1898, was less than the average annual payments made by said company to each of said cities and towns under and pursuant to the provisions of chapter 490, Part III, sections 39-51, inclusive, of the Acts of 1909, and that the average annual payments made by said company to each of said cities and towns during the said three years was as stated in said petition;

And it appearing to the Commission that one per cent of the gross receipts of said company apportioned in the manner provided by chapter 490, Part III, section 48 of the Acts of 1909, will yield annually hereafter to each of said cities and towns an amount equal to the average annual cost to said cities and towns of said work done by them during the said preceding three years, —

It is

Ordered, That the proportion of the percentage of gross receipts to be paid as an excise tax by said company to the said towns of Amherst, Hadley, Hatfield, Whately, Deerfield, Greenfield and Montague and said city of Northampton be hereby fixed at one per cent.

By the Commission,

ANDREW A. HIGHLANDS,

OCTOBER 31, 1919.

[P. S. C. 2457]

Secretary.

Petition of the Massachusetts Northeastern Street Railway Company for a revision of the amount of the excise tax to be paid by said company to the cities of Haverhill, Newburyport and Methuen and to the towns of Amesbury, Dracut, Merrimac, Salisbury and Newbury.

Upon the foregoing petition, after public notice and hearings, at which the cities and towns named in said petition were given an opportunity to submit evidence, and all the parties hereto having agreed that the average annual cost to each of said cities and to each of said towns for the work done by it during the preceding three years, under the provisions of chapter 463 of the Acts of 1906 which they were not by law required to do prior to October 1, 1898, was less than the average annual payments made by said company to each of said cities and to each of said towns under the provisions of chapter 490, part III, sections 39-51, inclusive, of the Acts of 1909, and that a tax of one per

cent upon the gross receipts of said company will yield to each of said cities and to each of said towns annually an amount equal to said average annual cost to said cities and to said towns for the preceding three years, —

It is hereby determined that the average annual cost to each of said cities and to each of said towns named in said petition of the work done by it during the preceding three years, under the provisions of chapter 463 of the Acts of 1906 which by law it was not required to do prior to October 1, 1898, was less than the average annual payments made by said company to each of said cities and to each of said towns under and pursuant to the provisions of chapter 490, part III, sections 39–51, inclusive, of the Acts of 1909, and that the average annual payment made by said company to each of said cities and to each of said towns during the said three years was as stated in said petition, —

And it appearing to the Commission that one per cent of the gross receipts of said company apportioned in the manner provided by chapter 490, part III, section 48 of the Acts of 1909, will yield annually hereafter to each of said cities and to each of said towns an amount equal to the average annual cost to each of said cities and to each of said towns of said work done by them during the said preceding three years, —

It is

Ordered, That the proportion of the percentage of gross receipts to be paid as an excise tax by the Massachusetts North-eastern Street Railway Company to the cities of Haverhill, Newburyport and Methuen and to the towns of Amesbury, Dracut, Merrimac, Salisbury and Newbury is hereby fixed at one per cent.

By the Commission,

ANDREW A. HIGHLANDS,

NOVEMBER 28, 1919.

[P. S. C. 2461]

Secretary.

Petition of the Northern Massachusetts Street Railway Company for a revision of the amount of the excise tax to be paid by said company to the city of Fitchburg and to the towns of Templeton, Westminster, Gardner, Athol, Orange, Phillipston and Winchendon.

Upon the foregoing petition, after a public notice and a hearing, at which the aldermen and selectmen of the city and towns named in said petition were given an opportunity to submit

evidence, and all the parties hereto having agreed that the average annual cost to said city and to each of said towns for the work done by it during the preceding three years, under the provisions of chapter 463 of the Acts of 1906 which they were not by law required to do prior to October 1, 1898, was less than the average annual payments made by said company to said city and to each of said towns under the provisions of chapter 490, Part III, sections 39-51, inclusive, of the Acts of 1909, and that a tax of one per cent upon the gross receipts of said company will yield to said city and to each of said towns annually an amount equal to said average annual cost to said city and to said towns for the preceding three years, —

It is hereby determined that the average annual cost to said city and to each of said towns named in said petition of the work done by it during the preceding three years, under the provisions of chapter 463 of the Acts of 1906 which by law it was not required to do prior to October 1, 1898, was less than the average annual payments made by said company to said city and to each of said towns under and pursuant to the provisions of chapter 490, Part III, sections 39-51, inclusive, of the Acts of 1909, and that the average annual payment made by said company to said city and to each of said towns during the said three years was as stated in said petition;

And it appearing to the Commission that one per cent of the gross receipts of said company apportioned in the manner provided by chapter 490, Part III, section 48 of the Acts of 1909, will yield annually hereafter to said city and to each of said towns an amount equal to the average annual cost to said city and to each of said towns of said work done by them during the said preceding three years, —

It is

Ordered, That the proportion of the percentage of gross receipts to be paid as an excise tax by said company to the said city of Fitchburg and to the said towns of Templeton, Westminster, Gardner, Athol, Orange, Phillipston and Winchendon be hereby fixed at one per cent.

By the Commission,

ANDREW A. HIGHLANDS,

OCTOBER 31, 1919.

[P. S. C. 2456]

Secretary.

Petition of the Springfield Street Railway Company for a revision of the amount of the excise tax to be paid by said company.

Hearings having been held with reference to the petition of the Springfield Street Railway Company for a revision of the amount of the excise tax to be paid by it in the cities and towns named in said petition, and said street railway company and all said cities and towns having been duly represented at said hearings, and it having been agreed by all the parties that the average annual cost to all said cities or towns of the work done by them during the preceding three years under the provisions of chapter 463 of the Acts of the year 1906 which they were not by law required to do prior to October 1, 1898, was less than the average annual payments made by said company to said cities or towns under and pursuant to the provisions of Acts of 1909, chapter 490, Part III, sections 39-51 inclusive, and have not exceeded in the aggregate one and one-half per cent of the average annual gross receipts of said company, —

It is hereby determined that the average annual cost to each of said cities and towns for work done by it during the preceding three years under the provisions of said chapter 463, which by law it was not required to do prior to October 1, 1898, was less than the average annual payments made by said company to it under and pursuant to the provisions of statutes 1909, chapter 490, Part III, sections 39-51 inclusive, and that the average annual payment made by said company to each of said cities and towns during said three years was in excess of the average annual cost to each of said cities and towns for said work done by it, —

And it having been further agreed by all said parties that the proportion of the gross receipts of said company which should be hereafter paid as an excise tax under the provisions of law applicable thereto by said company to said cities or towns should be fixed at the percentage of one and one-half per cent of the gross receipts of said company in order to yield to said cities or towns hereafter an amount at least equal to the average annual cost to said cities or towns of the work done by them during the preceding three years as aforesaid;

And it appearing to the Commission that one and one-half per cent of the gross receipts of said company apportioned in the manner provided by Acts of 1909, Part III, section 48, will yield to each of said cities and towns hereafter an amount in

excess of the average annual cost to each of such cities and towns of the work done by them during the preceding three years as aforesaid, —

It is

Ordered, That the proportion of the percentage of the gross receipts to be paid as an excise tax by said company to the said cities or towns be hereby fixed at one and one-half per cent.

By the Commission,

ANDREW A. HIGHLANDS,

SEPTEMBER 30, 1919.

[P. S. C. 2445]

Secretary.

Petition of the Worcester Consolidated Street Railway Company for a revision of the amount of the excise tax to be paid by said company.

Hearings having been held with reference to the petition of the Worcester Consolidated Street Railway Company for a revision of the amount of the excise tax to be paid by it in the cities and towns named in said petition, and it having been agreed between the company and all the cities and towns named in said petition except the towns of Mendon and Sutton (which were not represented at the hearings, submitted no evidence in this proceeding and after notice of the terms agreed to by the other cities and towns offered no objection thereto) that the average annual cost to all said cities or towns of the work done by them during the preceding three years under the provisions of chapter 463 of the Acts of the year 1906, which they were not by law required to do prior to October 1, 1898, was less than the average annual payments made by said company to said cities or towns under and pursuant to the provisions of Acts of 1909, chapter 490, Part III, sections 39–51 inclusive, and has equaled in the aggregate one and one-half per cent of the average annual gross receipts of said company, it is hereby determined that the average annual cost to each of said cities and towns, including the towns of Mendon and Sutton, for work done by it during the preceding three years under the provisions of said chapter 463, which by law it was not required to do prior to October 1, 1898, was less than the average annual payments made by said company to it under and pursuant to the provisions of statutes 1909, chapter 490, Part III, sections 39–51 inclusive, and that the average annual

payment made by said company to each of said cities and towns during said three years was in excess of the average annual cost to each of said cities and towns for said work done by it, —

And it is further determined that the proportion of the gross receipts of said company which should be hereafter paid as an excise tax under the provisions of law applicable thereto by said company to all the cities and towns named in said petition should be fixed at the percentage of one and one-half per cent of the gross receipts of said company in order to yield to said cities and towns hereafter an amount equal to the average annual cost to said cities or towns of the work done by them during the preceding three years as aforesaid;

And it appearing to the Commission that one and one-half per cent of the gross receipts of said company apportioned in the manner provided by Acts of 1909, Part III, section 48, will yield to each of said cities and towns hereafter an amount equal to the average annual cost to each of such cities and towns of the work done by them during the preceding three years as aforesaid, —

It is

Ordered, That the proportion of the percentage of the gross receipts to be paid as an excise tax by said company to the said cities or towns be hereby fixed at one and one-half per cent.

By the Commission,

CHARLES E. MANN,

OCTOBER 11, 1919.

[P. S. C. 2446]

Executive Secretary.

MISCELLANEOUS.

STREET RAILWAYS EARNING FIVE PER CENT DIVIDENDS.

Communication.

To the Honorable the Bank Commissioner of the Commonwealth, State House, Boston, Massachusetts.

DEAR SIR:— Pursuant to the provisions of Acts of 1908, chapter 590, Part V, section 68, *Fifth*, and amendments thereof, and of section 2 of chapter 122 of the General Acts of 1917, we certify and transmit the following list of street railway companies incorporated in this Commonwealth which appear from the returns made by them and filed with the Commission for the year ended December 31, 1918, to have annually earned and properly paid without impairment of assets or capital stock, an amount in dividends equal to five per cent on all outstanding capital stock in each of the five preceding years:—

Boston and Revere Electric Street Railway Company.
East Middlesex Street Railway Company.
East Taunton Street Railway Company.
Union Street Railway Company.
West End Street Railway Company.

The statutes cited above, as construed by this Commission and its predecessor, do not require the Commission to determine whether the provisions for maintenance and depreciation made by street railway companies as shown by their returns have or have not been adequate.

For the Commission,

FREDERICK J. MACLEOD,

MAY 13, 1919. [P. S. C. 2147]

Chairman.

CHARTER CERTIFICATE.

By order of the Public Service Commission, I, the undersigned, Assistant Secretary of said Commission, hereby certify that the requirements of law preliminary to the establishment of a railroad corporation, as set forth in chapter 463 of the Acts of 1906 and acts in addition thereto, have been complied with by the subscribers to the annexed articles of association for the formation of the Fore River Railroad Corporation.

ALLAN BROOKS,

JANUARY 6, 1919. [P. S. C. 2343]

Assistant Secretary.

APPROVAL OF CONTRACT.

Petition of the Middlesex and Boston Street Railway Company and the Newtonville and Watertown Street Railway Company for approval of agreement providing for the lease and operation of tracks of the Newtonville and Watertown Street Railway Company in Newton and Watertown by the Middlesex and Boston Street Railway Company.

It appearing, after notice and hearing, that the terms of a contract executed by the Middlesex and Boston Street Railway Company and the Newtonville and Watertown Street Railway Company under date of June 26, 1919, providing that the former shall perform all the transportation upon and over that portion of the tracks of the latter company between Newtonville square in the city of Newton and the corner of Watertown and Galen streets in the town of Watertown, are consistent with the public interests, — it is

Ordered, That the approval of the Commission be hereby given to the above-named contract, a copy of which is on file in this office.

Attest: ANDREW A. HIGHLANDS,

JULY 29, 1919. [P. S. C. 2444]

Secretary.

CIRCULARS.

To Street Railway Companies.

At an executive meeting of the Commission held this day, the following order was adopted: —

Ordered, That in addition to the information contained in the annual return filed by the street railway companies subject to the supervision of

this Commission, said street railway companies are hereby requested to file a financial report in the form prescribed by the Commission for the periods ending March 31, June 30, September 30 and December 31 of each year; said report to be filed not later than thirty days after the ending of each quarter.

A report for the quarter ended June 30, 1919, which will also contain all transactions since January 1, 1919, should be filed as soon as practicable. A supply of forms for use in making reports is enclosed herewith.

By order of the Commission,

ANDREW A. HIGHLANDS,

SEPTEMBER 4, 1919. [P. S. C. 2049-G]

Secretary.

FENDERS OR WHEELGUARDS.

Motion of the Commission in the matter of modification of existing regulations governing the use of fenders and wheelguards upon street cars.

The Commission upon its own motion gave a public hearing on October 29, 1918, with reference to the modification of existing regulations governing the use of fenders and wheelguards upon street railways operated within the commonwealth. Notice of the hearing was sent to all such street railway companies and to mayors of cities and selectmen of the towns in which these companies operate.

With the advent of electrically operated cars in our highways came the apparent need of some form of fender or wheelguard for the better protection of the traveling public. Various experiments with devices designed to accomplish this purpose have been made by this Commission and its predecessor.

The records of the office show that, on street railways in Massachusetts, for a period of five years beginning July 1, 1913, 1,586 persons came in contact with either fenders or wheelguards.

Analysis of the reports, showing in detail the causes and results of these accidents, is convincing proof of the necessity of co-operation of all parties in interest in reducing accidents of this kind to a minimum.

While no device known to the Commission can be relied upon at all times and under all conditions to pick up, without injury, persons standing or lying upon street railway tracks, the Com-

mission has approved such types of wheelguards and fenders as, after careful investigation and numerous tests, appeared to possess the most merit. Experience with these devices has shown that in certain instances protruding fenders have injured persons who might otherwise have escaped injury. Upon a large number of surface cars the fenders are useless from the fact that projecting parts of the car so reduce the available area of the platform as to leave no room for catching or holding persons who fall or are thrown upon it. Many devices are automatic or of the drop design. Such fenders and wheelguards may be considered safe for use on cars operated over low speed lines, but unsafe for use on cars operated over high speed lines, as they might unexpectedly fall upon the track, possibly derailing the car, and injuring its occupants. The safety of passengers riding on street railway cars should be considered, as well as of the persons using the highways. The greatest safeguard, however, in street railway operation comes from having the cars at all times under such control as to avoid striking persons, rather than depending upon any device which may save them from serious harm, after being struck.

As most serious accidents of this nature occur when the wheels of a moving car pass over a person, it seems to the Commission that the matter of most importance is to provide a type of wheelguard which will tend to prevent this. It is also important that the wheelguard should be properly attached to the car and maintained in good working order. Good surface and alignment of the track to prevent unnecessary oscillation of the cars and the maintenance of the surface of the highway as nearly as practicable level with the top of the rails are conditions necessary for the operating efficiency of any device. There is also a duty resting upon the public using the highways, in which street railways are operated, to exercise due care for their personal safety, having in mind that street cars may appear at any moment, and that those who come in contact with them cannot expect to escape injury.

The Commission therefore prescribes the following regulations for the equipment of street railway cars with fenders and wheelguards in compliance with section 90, Part III, chapter 463 of the Acts of 1906 and amendments thereto:—

1. All cars operated by street railway companies shall be equipped with wheelguards of a type and in a manner approved by the Commission.
2. All fenders used on street railway cars shall be of a type and attached in a manner approved by the Commission.

3. Each street railway company shall submit to the Commission on or before July 1, 1919, a blue print, sketch or photograph showing the type of such wheelguards and fenders attached to cars as are in use at that time, together with the height of the same above the rail.

4. The foregoing regulations supersede all previous regulations of the Commission regarding fenders and wheelguards.

By the Commission,

ANDREW A. HIGHLANDS,

APRIL 16, 1919. [P. S. C. 2299]

Secretary.

Petition of the Boston and Worcester Street Railway Company for approval of type of fender and wheelguard.

After consideration, —

It is

Ordered, That the approval of the Commission be hereby given to the use on freight cars of the Boston and Worcester Street Railway Company of fenders and lifeguards of the type shown in the petitions of said company and accompanying photographs, when attached to such cars in the manner described therein.

Attest: ANDREW A. HIGHLANDS,

AUGUST 19, 1919. [P. S. C. 2299-O]

Secretary.

Petition of the Springfield Street Railway Company for approval of type of lifeguard.

After consideration, —

It is

Ordered, That the approval of the Commission be hereby given to the use on cars of the Springfield Street Railway Company of lifeguard of the type known as the H. B. Lifeguard, as shown on a blue print filed with the petition, upon the understanding, however, that said lifeguard shall not be used on cars operated over high speed lines.

Attest: ANDREW A. HIGHLANDS,

AUGUST 25, 1919. [P. S. C. 2299-P]

Secretary.

Petition of the Worcester Consolidated Street Railway Company for approval of type of lifeguard.

After consideration, —

It is

Ordered, That the approval of the Commission be hereby given to the use on cars of the Worcester Consolidated Street Railway Company of lifeguard of the type known as the H. B. Lifeguard, as shown on a blue print filed with the petition, upon the understanding, however, that said lifeguard shall not be used on cars operated over high speed lines.

Attest: ANDREW A. HIGHLANDS,

AUGUST 25, 1919. [P. S. C. 2299-Q]

Secretary.

SAFETY APPLIANCES.

Petition of Thomas A. Niland and others relative to brakes and other safety appliances on cars of the Boston Elevated Railway Company, particularly on cars operating in the East Boston tunnel.

The Commission held a hearing upon this petition and also caused an inspection to be made by its Inspection Department of the cars operated through the East Boston tunnel and other tunnels and subways on the Boston Elevated railway system. It developed from the above inspection and hearing that the air brakes were in good condition but many of the hand brakes did not release freely, due to lack of lubrication. These hand brakes are largely used as emergency brakes and where cars are left standing on a grade. It is very essential, however, that all brakes on cars as well as all mechanism connected with brakes and running gear on cars operated on high speed lines should not only be kept in a high state of maintenance, but should receive frequent inspection. Some changes in the handle of these brakes have recently been made at the suggestion of the Commission, in order to render their application more effective. Operating and maintenance officials of the company admitted at the hearing that the condition of these hand brakes was substantially as reported, that they were not in the condition they desired, due to the inability of the company, on account of the war, to obtain the necessary help to keep them at a proper standard of maintenance. Subsequent inspections made by the Inspection

Department showed some improvement in the maintenance of these brakes. More recent inspections show a decided improvement due to the acquisition of many new cars and the ability of the company to obtain the requisite help.

The matter of the speed of cars and trains through the East Boston tunnel was recently called to the attention of the Commission and was taken up with the operating officials of the company. Action has been taken by the company to see that this is kept within proper limits.

The Commission will have its Inspection Department follow up these matters so far as its facilities will permit. As no further action is necessary, the petition is placed on file.

For the Commission,

ALLAN BROOKS,

NOVEMBER 29, 1919. [P. S. C. 2314]

Assistant Secretary.

WHISTLING.

Petition of the selectmen of the town of Shirley et al. relative to the prohibition of whistling by locomotives of the Boston and Maine railroad at certain grade crossings in that town.

The petitioners in this case represent that they are much distressed and annoyed by the whistling of the locomotives on the Fitchburg division of the Boston and Maine railroad at the numerous grade crossings, located in close proximity to each other in the village of Shirley, and they ask that the Commission require such changes as will abate, modify, forbid or regulate the sounding of locomotive whistles at such crossings.

The crossings in question are at Center street, Main street and Phoenix street, which cross the tracks of the railroad in the residential section of the village. They are all within a distance of less than $\frac{1}{2}$ mile and are protected by gates or flagmen during all the hours of the day and night.

In view of the proximity of these crossings to each other, the residential character of the neighborhood in the vicinity, and the further fact that they are protected as above stated, the Commission will require that the sounding of the whistle on locomotives on eastbound trains at Center, Main and Phoenix streets, and on westbound trains at Main street and Center street be discontinued.

It is

Ordered, That the whistling of locomotives as a crossing signal be prohibited on the Fitchburg division of the Boston and Maine railroad in the town of Shirley, on all east bound trains at Center, Main and Phoenix streets, and on westbound trains at Main street and Center street, it being understood, however, that the whistle shall be sounded whenever upon approaching these crossings there seems to be special occasion therefor to prevent accidents.

Attest: ANDREW A. HIGHLANDS,
MARCH 19, 1919. [P. S. C. 2371] Secretary.

EAST TAUNTON FARES.

Notice of the East Taunton Street Railway Company of proposed increase in rate of fare for passengers upon its railway.

The present proceedings involve an increase in the rate of fare on the East Taunton street railway from five cents to eight cents, retaining the existing fare zones. During the hearings, the parties in interest agreed upon the substitution of a seven-cent fare, to become effective October 1, 1919, for an experimental period of three months, upon the understanding that at the end of that period the public or the company may again bring the matter to the attention of the Commission.

It is therefore

Ordered, That the order of the Commission dated September 23, 1919, suspending the operation of the schedule of rates contained in tariff M. P. S. C. No. 2 of the East Taunton Street Railway Company until October 25, 1919, be hereby vacated, and that a supplement to said tariff embodying the change in the rate of fare from eight cents to seven cents as above indicated, be authorized to become effective on October 1, 1919, upon three days' notice to the public.

Attest: ANDREW A. HIGHLANDS,
SEPTEMBER 26, 1919. [P. S. C. 2474] Secretary.

SPECIAL REPORTS TO THE GENERAL COURT.

Report on an order of the General Court providing for a survey of the street railway situation of the Commonwealth by the Public Service Commission acting jointly, on so much of said order as is applicable to the Bay State system, with the trustees appointed under chapter 188 of the Special Acts of 1918.

To the Honorable the Senate and House of Representatives of the Commonwealth of Massachusetts.

On January 22, 1919, the House of Representatives adopted the following order: —

That the Public Service Commission survey the street railway situation of the Commonwealth, and report on or before February 15, 1919, the amount of the deficiency in the revenue of the said street railways, the amount of taxes and other public charges paid by them, and what, if any, part of the deficiency should be met by remission of taxes and other public charges and by appropriations of money, coupled with public control, by the localities and the Commonwealth in order to keep necessary transportation facilities in operation; also that the Commission formulate one or more definite propositions embodying the recommendations in its annual report relative to street railways, and submit estimates of the cost thereof. The Commission is also requested to report such other recommendations as to it seem proper in the premises.

This order was adopted in concurrence by the Senate on January 23, 1919, with the following amendment: —

In the consideration of the foregoing questions as applicable to the Bay State Street Railway Company or a successor company and in any recommendation in relation thereto the Commission shall act jointly with the trustees appointed under the provisions of chapter 188 of the Acts of the year 1918.

This amendment was adopted in concurrence by the House of Representatives on January 24, 1919, and the order as amended was transmitted to the Commission on January 27, 1919.

I.

In accordance with the order the Commission and the trustees after conference and careful consideration jointly submit the following report on so much of said order as is applicable to the Bay State system.

We submit first a statement of the results of operation of the Bay State Street Railway Company for the year ended December 31, 1918, and an estimate for the year beginning July 1, 1919, and ending June 30, 1920.

The statement and estimate were prepared under the direction of the receiver of the Bay State Street Railway Company, and were taken from a report filed by the receiver with the United States District Court, under date of February 15, 1919. The statement for the calendar year 1918 is based, so far as possible, on actual results, with such adjustments as were necessary to make it coincide with the terms of the Bay State legislation passed last year, so that a comparison with the estimate for the year beginning July 1, 1919, may be readily made.

BAY STATE STREET RAILWAY COMPANY.

(WALLACE B. DONHAM, *Receiver.*)

Results of Operation, Year ending Dec. 31, 1918.

Cost of service (including real estate and Federal taxes):—

1918 expenses, preliminary figures,	\$9,479,100
Depreciation on basis formulated by Public Service Commission and on 1918 investment,	1,104,000
Interest on investment (approximate),	2,470,000
Real estate and Federal taxes,	158,200
<hr/>	
Total,	\$13,211,300
Revenue,	10,533,000
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Deficit on basis of service-at-cost,	\$2,678,300
Excise and franchise taxes would add	240,200
<hr/>	
Total deficit,	\$2,918,500

These figures are for the property which it is expected the receiver will turn over to the trustees, adjusted to compare with the accompanying statement for the year beginning July 1, 1919.

BAY STATE STREET RAILWAY COMPANY.

(WALLACE B. DONHAM, *Receiver*.)*Estimate of Results of Operation, Year ending June 30, 1920.*¹

Cost of service (including real estate and Federal taxes):—

Operating expenses, based on those for 1918 adjusted to present wages; to coal at \$7 per ton; and the use of 100 one-man cars:—

1918 expenses, preliminary figures, . . . \$9,479,100

Wage adjustment to rates established under National War Labor Board's

decision of Dec. 3, 1918, . . . 1,050,000

\$10,529,100

Coal saving, . . . \$455,600

One-man cars, . . . 184,000

639,600

\$9,889,500

Depreciation on basis formulated by Public Service Commission and on 1918 investment, . . . 1,104,000

Interest on investment (approximate), . . . 2,500,000

Real estate and Federal taxes, . . . 158,200

Total, . . . \$13,651,700

Revenue based on continuance of present fares, . . . 12,164,700

Deficit, . . . \$1,487,000

Excise and franchise taxes on 1917 basis, prior to receivership, would add . . . 330,900

Total deficit, . . . \$1,817,900

These figures are for the property which it is expected the receiver will turn over to the trustees.

In our opinion, the territory served by the Bay State system desires—

First.— Good service.

Second.— Just fares.

Third.— Abandonment of as few routes as possible.

Good service implies frequent service in comfortable cars and over properly maintained tracks. From the reports at hand, we are convinced that the expense of good service largely exceeds the revenues from present rates of fares. This situation

¹ Approximately the first year of trustee operation.

will make necessary further increases in fares. The receiver has concluded that ten cent fares would largely increase the revenues of the company, and that the problems facing the trustees could be worked out with such fares. Whether or not that view is justified, we believe that fares higher than the present rates would be likely to increase congestion in city centers and would otherwise seriously impair the usefulness of the Bay State system to the communities served. Therefore we are recommending another solution of the problem. The history of fare raising in Massachusetts and elsewhere proves that while higher fares do produce more revenue, they produce it from a smaller number of passengers, as each increase drives away a portion of the business. The so-called long haul patrons are forced to make up this loss, and the street railway becomes less useful to the community.

Operating expenses can be substantially reduced by the abandonment of unprofitable routes. Court proceedings brought by the receiver to abandon 317 miles of track have demonstrated the serious results of this proposal. Many of these lines furnish the only means of transportation to and from their work for large numbers of people who have built homes outside of the cities. The cities gain direct benefits from these outlying lines which bring in labor to the mills and customers to the merchants. Any wholesale abandonment of routes in the Bay State territory will, in our opinion, be a general public misfortune.

Under the Bay State Public Control Act, the trustees have no option but to collect the entire cost of service from the car rider. Wage increases have increased operating costs far beyond those prevailing when this legislation was enacted. Because of the changed conditions, we are forced to the conclusion that it is no longer equitable to require the car rider to pay the very high fares which will be necessary and that the car rider should be relieved, through taxation, of a moderate portion of the cost of service. In view of the unquestionable benefits which accrue to taxable property from adequate street railway service at reasonable rates, we believe that such an arrangement will not impose undue burdens on the taxpayer.

We therefore submit and recommend for enactment an amendment to the Bay State Public Control Act. This amendment provides that the first 5 cents of the cost of service per passenger shall be paid by the car rider and that any costs beyond 5 cents

per passenger shall be paid 50% by the car rider and 50% by general taxation. A commission would apportion the tax among the communities served and the initial payment by the taxpayer would be made in the fall of 1920. In our opinion, the enactment of this amendment will prevent Bay State fares from going above the present level and both fares and taxes will be gradually reduced as the trustees are able to decrease operating costs. We believe also that it will enable the trustees to continue in operation most of the lines which the receiver has petitioned the court for authority to discontinue.

As a general bill for the abolition of excise and franchise taxes is being submitted by the Public Service Commission, no reference to that phase of the subject is considered necessary in this report, except to say that the trustees favor such legislation.

Respectfully submitted,

FREDERICK J. MACLEOD,
EVERETT E. STONE,

Public Service Commission.

. HOMER LORING,
ISAAC SPRAGUE,
FRED J. CROWLEY,
ARTHUR G. WADLEIGH,
EARLE P. CHARLTON,

Trustees appointed under Chapter 188 of the Special Acts of 1918.

II.

Report of the Public Service Commission on so much of said Order as relates to the General Street Railway Situation.

In addition to the investigation and report which the Public Service Commission, under the terms of the order, is directed to make jointly with the trustees of the Bay State system, the Commission is asked to make a survey of the general street railway situation of the commonwealth, to furnish certain information in relation thereto, and to make such recommendations as to it seem proper in the premises. The Commission, in the first place, is requested to report "the amount of the deficiency in the revenue of the said street railways." In response to that request the Commission has prepared certain

statistical tables, appended hereto, showing the financial results of operation during recent years. Table I gives a condensed statement of street railway revenues and expenses for the years 1914 to 1919 inclusive; Tables II and III show the revenues and expenses of each company sub-divided according to the principal accounting classifications for the years ended December 31, 1917, and December 31, 1918, respectively; Table IV gives similar information, based upon estimates, for the year 1919; and Table V shows operating revenues and expenses per car mile, and ratio of operating expenses to operating revenues for 1917, 1918 and 1919.

All figures given for 1917 and previous years, and all income figures for 1918 are accurate, but in the case of certain companies the exact expenditures for the entire year 1918 could not be ascertained for certain items at this time. The figures given, which are based upon actual expenditures for eleven months and estimated expenditures for the month of December, are, however, sufficiently accurate for all present purposes. It has been impossible, within the limitations of time available for the preparation of this report, to check these estimates in detail, and indeed, an accurate check, in view of the uncertainties of the future, is impossible. It would appear, however, from such investigation as it has been found possible to make, that these estimates have, in general, been carefully and intelligently made, that any increases in expenses as compared with 1918, are based upon known facts, and that the estimates, while necessarily to some degree speculative, may be accepted as an approximation as nearly accurate as may now be made, to the actual financial results of operation for the current year. The profit and loss items for each company, as shown in Tables III and IV, represent the surplus or deficit for the year after the payment of operating expenses and fixed charges, but without making allowance for any dividend return on preferred or common stock, and in case of most of the companies are based upon an inadequate allowance for depreciation.

In order that the companies, in the language of the order, may be in a position "to keep necessary transportation facilities in operation," their revenues should be sufficient to enable them to make considerably larger allowances for depreciation than have, in general been hitherto made, and to pay at least a moderate return upon investment. A company which is earning little or no return, and is constantly depreciating in

value because of inadequate up-keep and repair, cannot be expected to go on with a losing venture, and its early retirement from the transportation field may be anticipated.

We have not had opportunity to make the detailed investigation of property accounts necessary to arrive at a reasonably accurate estimate of depreciation requirements of the several companies. We have, however, estimated in the rough that in addition to the depreciation charges, commonly provided for under maintenance accounts, provision should be made for an annual depreciation charge equivalent in amount to 1.8 per cent of the cost of permanent investments. This basis of estimate was reached by computing the percentage of the cost of permanent investments represented by the net amount allowed for depreciation by the Commission in the Bay State rate case after a careful investigation of the detailed figures submitted by the engineers of that company for the year ended June 30, 1914. It is to be observed that the total depreciation requirements of that company under the finding then made amounted to approximately 2.7 per cent of the cost of permanent investments, the difference representing depreciation provided for in the 1914 maintenance accounts. As the companies have in general been unable, particularly during the past year, to carry out their normal maintenance program owing to deficiencies in revenue and shortage in the labor supply, the depreciation charges which are included in their 1918 maintenance accounts are probably insignificant in amount. It is true that no uniform percentage of property investment will accurately reflect the depreciation requirements of the several companies owing to the diversity in the character of their plant and equipment, but in so far as conditions on the Bay State may be regarded as typical, the basis for estimating depreciation charges which we have suggested above is to be taken as a minimum rather than a maximum requirement. The additional allowance for depreciation which should be made by the several companies upon that basis is shown in Table VIII.

In addition to their operating expenses and fixed charges, street railway companies under the present law are entitled to a return of at least 6 per cent upon their bona fide stock investment if they can earn it by the establishment of just and reasonable rates. Under the terms of the order, however, it is not a question of what return, as matter of theory, is just and reasonable, but, in effect, what is the minimum return which

will permit the companies to continue operation. The answer to that question is dependent in part upon whether the return is to be determined upon the basis of securing permanence of service for the indefinite future or merely with a view to meeting the conditions of the present and the immediate future. For reasons later stated we believe that all that can now be wisely done is to make provision for immediate street railway requirements and a rate of return on investment determined upon that basis. Just what this return should be is to a large extent a question of judgment. In our opinion it is necessary to make provision at least for the payment of all dividends on preferred stock and a return upon the legitimate investment represented by common stock substantially equivalent to what the companies were able to pay under normal operating conditions up to a maximum of 5 per cent. Such a return may be measured by the average annual dividend payments on common stock for the three-year period ended June 30, 1915. The stock return for the various companies upon that basis is indicated in Table VI. Upon the basis of the financial results of operation for the year 1918, adjusted by the allowances for depreciation and return on investment which we have indicated above, the deficiencies in revenue of the various companies which must, in our judgment, be met in order "to keep necessary transportation facilities in operation" are shown under the heading "Deficit" in Table VIII.

The Commission is also asked to report on "the amount of taxes and other public charges paid by street railway companies." Table VII shows the various classes of taxes that are now assessed upon street railway companies and the amount paid by the several companies under each tax sub-division for the year 1918. In addition to the ordinary local taxes upon real estate and machinery, street railway companies under existing law pay a corporate franchise tax, at the average rate of local taxation, upon the market value of their capital stock less the value of their real estate and machinery, and a commutation or excise tax, varying from 1 per cent to 3 per cent of its gross receipts according to its revenue per mile of track, which is assessed by and paid to the various cities and towns served by the company upon the basis of track mileage, and is intended to commute any obligation on the part of the companies to contribute towards the cost of the construction, repair and maintenance of public ways. The companies are also obliged to pay a stated income tax and certain federal and miscellaneous taxes of relatively small amount.

In addition to taxes, "other public charges" are paid by street railway companies through obligations requiring them to assume certain costs in connection with the maintenance and construction of public highways and bridges. Despite the enactment of the excise tax, requirements contained in original grants of locations with respect to the maintenance and repair of public ways still remain in full force and effect, so that the companies may be compelled to pay the excise tax, supposed to be in lieu of all work in the streets, and also to do in part the actual work as well. In many cases, also, where original grants contained no such provisions, the companies, in order to obtain locations for double track or relocations of existing track for more efficient operation, have been cajoled or coerced by the local authorities to contribute to the cost of municipal improvements by performing work upon the street which the statutes do not require or even contemplate. In connection with a widening or change in grade of a street or highway the companies are frequently obliged to change the location of their tracks at great expense. Additional public charges are paid by street railway companies under existing statutes requiring them to share in the expense of alteration or reconstruction of highway bridges on which they have locations, and to contribute up to 15 per cent of the total cost of abolition of highway grade crossings over which they operate. The expense of these bridge alterations and grade crossing eliminations often amounts to a large sum and is a serious burden upon our street railway companies in their present straitened financial condition.

It has not been found possible to make even an approximate estimate of the annual amounts paid by the several street railway companies by reason of these various public obligations, as these amounts may vary widely from year to year, and as expenditures of this character are not separately classified and could not be ascertained except by a long and detailed investigation of separate items included in maintenance and reconstruction accounts. As some indication of the burden involved it may be pointed out that an investigation made in connection with the Bay State rate case in 1916 indicated that the company, since the enactment of the excise-tax law of 1898, had paid over \$2,000,000 for the cost of paving alone. If to the paving cost is added the expenses of grading, renewals of ties and rails incident to street changes, bridge alterations, grade crossing eliminations and other similar work which may be in the general public interest but is of little or no advantage to the com-

panies, the total must represent a very substantial amount. The fact that so much of said costs as represents betterment may be capitalized does not prevent the practice from being burdensome to the companies.

The next inquiry suggested under the terms of the order is what, if any, part of the deficiency in revenue requirements "should be met by remission of taxes and other public charges and by appropriations of money, coupled with public control, by the localities and the commonwealth." If it is admitted, as we believe it must be, that street railway companies are performing a necessary public service, the cost of this service should be met by those who profit by it in proportion to the benefits received. The present system which throws the entire cost of service upon the car riders apparently rests upon the assumption that the individual riders are the only persons who have any legitimate interest in the maintenance of good local transportation facilities. The fallacy in such an assumption is so obvious that it scarcely needs to be pointed out. In addition to the benefits received by individual street railway patrons there is a very large community benefit which can be measured by the losses in industry, trade, real estate values and other forms of community wealth which would result if all street railway facilities were suddenly blotted out. For this benefit, up to the present time, the community has paid nothing and has succeeded not only in unloading its legitimate part of the transportation burden upon the shoulders of the car rider, but also in making him pay, in addition, a portion of the cost of general municipal improvements through the imposition of special taxes and public charges, as indicated above. The only justification for the existing system is the fact that the burden is so widely distributed that fares in the past have been relatively low and their payment has involved no special hardship. But when the car riders are compelled, as a large proportion of them now are through reductions in fare zones and increases in the unit of fare, to pay increases of fare varying from 100 per cent to 400 per cent, the inequality of the present system is thrown into strong relief. The burden is one that the car rider not only ought not to pay but, broadly speaking, cannot pay under present economic conditions. The stake of the community in good transportation facilities is so large and the menace to community interests in the present situation is so grave that any plan involving a relatively small community contribution

which will preserve our street railway facilities in full and efficient operation is to be regarded as a benefit rather than a burden from the standpoint of the community itself, and those who have the largest business and property interests in the cities and towns affected, should be the most active, as they are the most interested, in bringing about such a solution.

The first step which should be taken in this direction is to relieve our street railway companies of the incubus of the special taxes and public charges which have been described above, and we submit herewith a draft of a bill which is intended to accomplish that result.

Relief of this character will, however, go only a short way towards meeting absolutely essential revenue requirements and we are convinced that direct community contributions through the tax levy is the only practicable way out of our present transportation difficulties. Just what the measure of such contribution should be and precisely how the total cost of service should be apportioned as between the community and the car rider is a question of no little difficulty. The plan which we have submitted jointly with the trustees for the Bay State system is perhaps as fair a method as can be devised, but owing to the diversity in fare zones and methods of collection on the lines of the various companies, its general application to all the street railways of the commonwealth would be impracticable.

No plan would be reasonable which would relieve the car rider from bearing his full and proper share of the transportation cost, but he should not be asked, as he is in effect under the present system, when large deficiencies of revenue must be met, to submit to constant increases in fare limited only by the possibility of their becoming so high that he will be unable to ride at all. When, to use an illustration that is typical of what has frequently proved to be the fact, a street railway company can obtain an increase of 10 per cent in its gross revenue, which it sorely needs and to which it is justly entitled, only by putting the service beyond the reach of some of its patrons and compelling the remainder to pay increases in fare from 50 per cent to 100 per cent, it is time that some method involving less economic waste should be found for making up the deficiency.

Despite the large and burdensome increases in fares already made, the deficiencies in revenue are so large that under the existing system there must be further fare increases of large

amount, with the possibility if not the probability that the increase in revenue, owing to the law of diminishing return, will prove wholly inadequate and that we shall be faced with a breakdown of our transportation facilities. We believe that the most urgent need of the present street railway situation is to take measures that will not only save the public from the further increases of fare which are now imminent, but will permit the gradual reduction of present fares to a more moderate level.

Instead of the present rigid system under which the entire cost of the service must be borne by the car rider, irrespective of where the application of that principle may lead, those charged with the responsibility of establishing or regulating street railway fares should be allowed sufficient discretion to enable them to fix fares which are consistent with the general public interest. It is easier to understand the principle which should govern than to state it by any concise and specific formula. It may, however, be expressed by requiring fares to be fixed which will meet the cost of the service in so far as this may be done without unduly hampering or discouraging the free movement of traffic and the economic development of the communities served or otherwise injuriously affecting the general public interest.

If fares established upon that basis do not yield sufficient revenue to meet the legitimate requirements of the company, the balance should be met by an addition to the tax levy up to a reasonable maximum which we suggest should be \$2 on each \$1,000 of assessed valuation. Any such appropriations should be "coupled with public control," as suggested by the order and indeed it is doubtful under the recent constitutional amendment whether any other course is open.

We have prepared and submit herewith a draft of a bill embodying the general plan which we have outlined. This draft was hurriedly prepared and doubtless has many defects in form and detail, but we believe that the general scheme presented is sound in principle and recommended both by considerations of justice and of expediency. In attempting to work out the plan in detail it was necessary in making provision for the assessment of taxes, to meet the situation resulting from the fact that about seventy cities and towns are served by two or more street railway companies. As one of such companies might accept the act and the others not, we have suggested that the tax in such cities and towns should be apportioned upon the basis of track

mileage. With this adjustment we believe that the tax should be apportioned to the various cities and towns served on the basis of valuation. This method is based upon the ability of the several communities to pay, which is the principle underlying all taxation. An apportionment on the basis of the number of car riders, which is the method adopted in the special Bay State and Boston Elevated acts, seems to us illogical and unsound, as it is not those who ride but those who fail to ride who are responsible for the present deficits, and who should in so far as they now share gratuitously in the community benefits of street railway transportation be primarily reached under any scheme of transportation. The practical effects of the general plan we have recommended is shown in Table VIII for all companies except the Boston Elevated, Bay State and Massachusetts Northeastern companies. Provision for the assessment of the revenue deficiency is already made in the Boston Elevated act and a separate plan for the assessment of such deficiency in the case of the Bay State system is presented in the portion of this report made jointly with the Bay State trustees. The other exception is the Massachusetts Northeastern Street Railway Company which, as pointed out in our last annual report, is an interstate road incorporated in both Massachusetts and New Hampshire with its lines interlacing across the boundary between the two states. If it should be thought desirable, some feasible method might possibly be found for accomplishing the same general results in the case of that company, but this could probably be done only through a special act.

Table VIII gives the actual receipts and expenditures of the remaining companies for the year 1918 adjusted by making the suggested allowances for depreciation and investment return and by eliminating the excise and franchise taxes. On the basis of the revenue requirements so found, it also shows the additional tax rate which would be required in the districts served by the various companies. Four companies, the East Taunton, Linwood, Lowell and Fitchburg, and Union fully meet the revenue requirements defined in the act without any tax contribution. These companies would not be affected by the act as they would have no inducement to accept it. In the case of all the other companies there would be a deficit to be met from the tax levy amounting in the average to \$1.24 per \$1,000 of valuation. Seven companies, the Berkshire, Blue Hill, Boston and Worcester, Concord, Maynard and Hudson, Milford, Attleborough and

Woonsocket, and Nahant and Lynn would require the maximum tax of \$2, and even that amount would be insufficient to meet their estimated revenue requirements. In the case of three important roads, the Springfield, Holyoke, and Middlesex and Boston, the rate would be approximately \$1; the rate for the Worcester Consolidated would be \$1.78; and the rate for the other roads would vary from \$1.96 for the Northern Massachusetts down to \$0.17 for the Interstate Consolidated.

Table IX shows the method by which the valuation of the territory served by respective companies has been computed, and, in the case of cities and towns served by more than one company, shows the percentage of the total valuation which has been assigned to each company.

It is to be observed that the additional tax rate which would be necessary for the several companies is based upon the revenues and expenses for 1918 and the fares prevailing throughout that year. If the estimates for 1919 were taken as the basis, the amount of the tax contribution payable to the several companies would show a slight variation from the figures given, but should in general be slightly less, as the estimated deficit of operation of all the companies for 1919 is somewhat less than the figures for 1918. If fares were to be substantially reduced below the present level and if this should result in a decrease in revenue the amount of the tax would be proportionately increased. The plan, however, could not well be put into effect before the latter half of the present year, and by that time prices should begin to show a decline below their present abnormal level. As this tendency is likely to be progressive, the tax burden should show a corresponding decrease from year to year while the plan remains in operation.

The plan we have suggested is not intended to be permanent, but merely a measure for tiding over the present emergency. The legislation suggested is therefore to be effective only until December 31, 1922. However impatient we may feel to reach a permanent solution of our street railway troubles, we cannot wisely tie ourselves to an untried experiment for the indefinite future. If the experiment after a three-years' trial proves successful, there is nothing to prevent its continuance, but if it should prove otherwise we ought to have a way of retreat left open. Besides, the whole situation at the present time is so fraught with uncertainty and it is so difficult to differentiate the permanent factors of our street railway problems from

those which are merely temporary, that we should content ourselves with meeting the present emergency and not attempt to devise a permanent plan until conditions have returned to normal.

It is true that any temporary plan and, indeed, any permanent plan which falls short of public ownership will not fully restore street railway credit. The plan we have suggested should at least improve credit and by making better provision for depreciation should assist in the rehabilitation of the properties and thus make possible better service as well as lower fares than would otherwise prevail.

Under the act submitted, the plan is to become effective upon its acceptance by the company. It would also be desirable, if it were practicable, that it should be conditioned also upon its acceptance by the communities served, through a referendum, but owing to the complications arising from the fact that certain of the cities and towns may also be served by other companies we have been unable to see just how such a referendum could be taken. Moreover, where the plan is merely temporary, there is less occasion for a referendum than if the plan were permanent. Of course, the act might be made subject to acceptance by the city and town governments in the territory served by the company, but unless their action should prove to be uniform it is a question how far the action taken by one municipality could properly be overruled by the action of another. In the absence of a referendum, we believe that the sentiment of the community in regard to matters of legislation can best be expressed through its representatives in the general court.

Commissioner Joseph B. Eastman, who has recently been appointed to the Interstate Commerce Commission and whose term of office as a member of this Commission expires on February 15, 1919, the date of this report, has been unable to participate in the final deliberations of the Commission upon this matter or in the preparation of this report. He has therefore submitted a separate statement of general views, which is appended hereto, together with a draft of a proposed act to provide for acquisition by the Commonwealth of the property of street railway companies. While we have not had opportunity to examine the proposed act in detail, it appears in its main features to embody the recommendations made in our last annual report. As the legislation suggested is merely permissive and is limited to giving practical effect to any arrangement

which the Commonwealth and the street railway companies might find to their mutual advantage, we concur with Commissioner Eastman in recommending its adoption.

Respectfully submitted,

FREDERICK J. MACLEOD,
EVERETT E. STONE,

Public Service Commission.

Memorandum.

In the discussion of the street railway situation which was contained in its last annual report, and after suggesting a possible means of improving the present unsatisfactory state of affairs through public acquisition of the street railway properties, the Commission made the following statement: —

The Commission has not attempted to draft a specific bill providing either for a temporary scheme of public aid or for the more permanent plan of public acquisition of the railway properties, nor indeed to formulate such a plan with any degree of definiteness. We have endeavored merely to state the issue and furnish a starting point for discussion. The new policy which we have suggested is too far-reaching in its consequences and penetrates too far into fields, like taxation, of which we have little special knowledge, to justify us in urging it with confidence or in developing it at this stage with greater particularity. It needs above all things the consideration of many minds from many angles. Furthermore, evidence of public demand is essential. It is useless to undertake the difficult task of preparing definite and comprehensive legislation upon this subject, unless there is sound reason to believe that it will be in accord with public opinion and receive the wholehearted support of the community. So strongly do we feel upon this point that we should not favor the adoption of any plan, no matter how great the public demand might seem to be, unless provision were made for final submission to a referendum vote. It is of vital importance that the people of the commonwealth should accept the new policy, if it is to be adopted, and become directly responsible for its success.

It was also stated that public ownership would insure a much-needed supply of capital and make lower fares feasible, and that there seems at present no other reasonably certain way of accomplishing these results. The plan outlined in our report, however, would involve a radical departure from the policy which Massachusetts has heretofore followed, together with a

possible substantial increase in taxation, and I should not wish to urge it strongly until it has received more discussion and consideration than it has yet received, nor unless there is evidence of real public demand. The latter point is particularly important. The plan of public acquisition proposed ought not to be forced upon a community against its will, and its success, in my judgment, would be largely influenced by the measure of public support which it received. While I do not share the intense fear of public ownership or even of public operation which some appear to have, undoubtedly new problems would be created and it would be difficult to deal with these satisfactorily without the loyal co-operation of the public and widespread appreciation of the fact that no new plan of this magnitude can be perfected in a moment.

A further objection to the adoption at the present time of any scheme for general public acquisition lies in existing uncertainty as to the ultimate and real value of the street railway properties. The war has created abnormal conditions and it is impossible to know, and difficult to predict, how far these conditions have permanency and how far they are liable to radical change within the near future. The earning power of some of the street railway companies, even under high fares, now seems very low, but there are indications that traffic may return and that expenses may presently decrease. If the commonwealth should now take the properties by condemnation proceedings, undoubtedly these considerations would be urged with much force by able counsel, and there is no certainty as to the conclusion which the courts might finally reach in assessing compensation. Under the circumstances, in addition to the large cost of the litigation, the commonwealth might find itself required to pay a price which subsequent events would show to have been unwarranted. This high degree of uncertainty makes me unwilling for the present to propose legislation providing for the immediate and general acquisition of street railway properties through exercise of the power of eminent domain.

Great care is also desirable in considering any plan for public aid which does not involve public acquisition of the properties. For the reasons stated in our annual report, I have not been impressed with the advantages of temporary financial aid from the public treasury. It would be most unfortunate if such aid should seem to take the form of a public subsidy for the mere purpose of rescuing investment. Our street railway companies

are entitled to charge such rates as may be just and reasonable, — sufficient, if possible, to earn a fair return upon legitimate investment; and this is why so many increases in fares have been permitted. But it is not always possible to earn a fair return, and where this is the case the investors in a street railway are no more entitled to relief from the public treasury than any other class of private investors. If public aid is granted at all, it seems to me that it should be extended in the conviction that existing high street railway fares, or the still higher fares which may impend, are injurious to the social and economic development and welfare of the community, and primarily for the purpose of securing fares which are more in accord with the general public interest.

As a basis for further public discussion and consideration of the question at the present time, I am prepared to recommend legislation which will make possible acquisition of street railway properties by the commonwealth, under certain conditions, and submit a draft of such legislation herewith. This draft is crude, doubtless incomplete in many respects, and capable of improvement in both general structure and detail. It may, however, prove to contain the germ of a useful idea and serve as a nucleus for a statute more perfectly constructed. The draft provides, in brief, for the possible purchase of street railway properties by the commonwealth, rather than for their acquisition through the exercise of the power of eminent domain. The Public Service Commission is authorized to enter into negotiations for such purchase, subject to certain restrictions, and to conclude preliminary agreements providing therefor. No such transaction is to be consummated, however, until it has been submitted to and approved by the local authorities of at least two-thirds of the cities and towns in which the property is located, representing at least a majority of the population affected. In other words, local consent to the purchase is required. In its negotiations the Commission is limited to a purchase price which does not exceed what it believes the property to be reasonably worth, taking into consideration cost, physical condition, and present and prospective earning power, and which is not greater in any event than the amount found to have been honestly and prudently invested in the property. The purchase price is to be paid, not in cash, but in bonds of the commonwealth bearing interest at such rate, not exceeding five per cent, as the Commission may determine.

In case only a comparatively small amount of property is so acquired, the Commission is empowered to appoint a public manager, but if and when more than 200 miles of street railway track are acquired, this arrangement is superseded by authorizing the governor to appoint a director of street railways to take charge of all such street railway properties owned by the commonwealth. The public manager or director of street railways is given full authority to manage and operate the properties of which he has charge, subject in general to existing street railway laws. In the case of fares, however, he is authorized to establish rates which will go so far as he deems practicable toward meeting the cost of service without hampering or discouraging the free movement of traffic or the economic development of the community. Rates so established are not subject to suspension, but may be reviewed by the Commission upon complaint. If the income proves insufficient to meet the cost of service, deficiencies are to be met out of the State treasury, in the first instance, and assessed back upon the cities and towns involved in proportion to population. Any surplus is to be distributed among the cities and towns in a similar manner. Provision is made for the issue of additional bonds of the commonwealth to meet the cost of extensions or additions and improvements which are approved by the Commission, or to meet the cost of replacements to the extent that the purchase price is less than the amount originally invested in the property. All taxes are eliminated, but provision is made for compensating the communities for the loss of real estate taxes, and jitney competition is to be permitted only with the approval of the public manager or director of street railways.

This proposed legislation is submitted in the belief, among other reasons, that there are street railway properties within the commonwealth which could probably be acquired, under existing conditions, at substantially less than the amount of the original investment. Within the past two years certain small railways have been abandoned and sold for scrap; there are others where such action seems not improbable; and there are certain larger companies whose future prospects are sufficiently uncertain so that their owners might well prefer to accept a smaller amount of State bonds with an assured return, rather than to continue an unsuccessful struggle to earn full return upon the entire investment. Acquired at such depreciated values and with capital available at low cost for improvements which

would render possible more efficient and economical operation, there is a reasonable prospect that these properties could be operated with greater net advantage to the public than is now obtained.

The plan thus proposed is conservative and so hedged about by safeguards that it is quite possible that it would be unproductive of concrete results. It can easily be converted, however, into more comprehensive or more direct legislation, if public opinion and experience warrant, as conditions become more settled. From another point of view it is also to be borne in mind that the plan for public operation and for the establishment of fares, as outlined in the draft submitted, can be changed at the will of the legislature, and that even with public ownership it would be possible at any time to provide for private operation, if that seemed desirable, or to place a larger share of the cost of service upon the fares collected than the legislation in its present form might involve.

Certain special legislation in regard to the Bay State street railway has been proposed by the public trustees who were appointed by the governor under the provisions of chapter 188 of the Special Acts of 1918 relative to that road. Under that act these trustees, as soon as the present company has been reorganized, will have practically full responsibility for the fares and service of the system for a period of at least ten years. Under the circumstances it seems to me sufficient to say that the proposed legislation is not inconsistent with the general theory of the act under which the trustees were appointed. It would probably prevent at least an attempt to secure additional revenue from fares higher than those now in force, and would aid in bringing about the reorganization of the present company upon the terms which the legislature has endorsed. If there is sufficient evidence that the legislation so proposed is supported by public opinion in the territory affected, I do not object to it.

Respectfully submitted,

JOSEPH B. EASTMAN,

FEBRUARY 15, 1919.

Commissioner.

TABLE I. — *Condensed Statement of Capital Stock, Revenues, Expenses and Surplus of the Operating Street Railway Companies for the Years 1914 to 1919¹ inclusive.*

COMPANY.	Capital Stock.	Capital Stock and Premiums.	Operating Revenue.	Total Income.	Operating Expenses.	Taxes and Fixed Charges.	Surplus.
1914.							
Bay State,	\$23,265,800 00	\$23,623,280 00	\$9,428,113 15	\$9,635,910 78	\$6,304,630 33	\$2,006,984 26	\$1,324,296 19
Boston Elevated,	23,879,400 00	26,586,828 13	17,629,616 81	17,785,978 25	11,297,861 46	5,230,928 24	1,257,168 55
All other roads,	29,618,400 00	30,902,005 89	12,426,533 74	12,452,991 68	8,840,585 19	2,424,280 98	1,188,125 51
Total,	\$76,763,600 00	\$81,112,114 02	\$39,484,263 70	\$39,874,880 71	\$26,443,076 98	\$9,662,213 48	\$3,769,590 25
1915.							
Bay State,	\$23,265,800 00	\$23,623,280 00	\$9,339,528 82	\$9,528,434 46	\$6,821,320 71	\$2,004,564 04	\$702,549 71
Boston Elevated,	23,879,400 00	26,586,828 13	17,798,607 73	17,886,549 64	11,287,983 33	5,274,347 20	1,324,219 11
All other roads,	30,021,900 00	31,305,505 89	12,218,973 58	12,260,523 75	8,892,280 48	2,285,696 67	1,082,546 60
Total,	\$77,167,100 00	\$81,515,614 02	\$39,357,110 13	\$39,675,507 85	\$27,001,584 52	\$9,564,607 91	\$3,109,315 42
1916.							
Bay State,	\$24,001,500 00	\$24,358,980 00	\$10,182,550 32	\$10,386,141 30	\$7,882,424 40	\$1,969,563 68	\$534,153 22
Boston Elevated,	23,879,400 00	26,586,828 13	19,286,975 27	19,375,260 13	12,654,122 32	5,555,795 29	1,165,342 52
All other roads,	32,841,800 00	34,220,065 89	13,501,938 41	13,617,750 03	10,021,396 09	2,284,431 87	1,311,922 07
Total,	\$80,722,700 00	\$85,165,874 02	\$42,970,564 00	\$43,379,151 46	\$30,557,942 81	\$9,809,790 84	\$3,011,417 81

¹ Estimated.

TABLE I. — Condensed Statement of Capital Stock, Revenues, Expenses and Surplus of the Operating Street Railway Companies for the Years 1914 to 1919¹ inclusive — Concluded.

COMPANY.	Capital Stock.	Capital Stock and Premiums.	Operating Revenue.	Total Income.	Operating Expenses.	Taxes and Fixed Charges.	Surplus.
1917.							
Bay State,	\$24,531,500 00	\$24,888,980 00	\$10,651,453 92	\$10,829,105 40	\$8,543,383 21	\$1,941,040 99	\$314,681 20
Boston Elevated,	23,879,400 00	26,586,828 13	19,733,875 96	19,818,407 01	13,547,124 28	5,553,776 87	717,505 86
All other roads,	32,599,800 00	33,978,065 89	14,214,508 62	14,319,512 86	11,511,605 27	2,337,012 29	470,895 30
Total,	\$81,010,700 00	\$85,453,874 02	\$44,599,838 50	\$44,967,025 27	\$33,602,112 76	\$9,831,830 15	\$1,533,082 36
1918.							
Bay State,	\$24,531,500 00	\$24,889,980 00	\$10,470,765 37	\$10,533,030 03	\$10,788,254 02	\$1,846,195 00	\$2,101,418 99 ²
Boston Elevated,	26,879,400 00	29,586,828 13	20,976,964 95	21,062,692 82	17,996,097 32	6,053,301 52	2,986,706 02 ²
All other roads,	33,412,300 00	34,789,565 89	13,916,320 08	13,989,888 01	12,041,391 95	2,337,519 93	339,023 87 ²
Total,	\$84,823,200 00	\$89,266,374 02	\$45,364,050 40	\$45,585,610 86	\$40,825,743 29	\$10,237,016 45	\$5,477,148 88 ²
1919.¹							
Bay State,	\$24,531,500 00	\$24,889,980 00	\$11,902,984 06	\$11,964,984 06	\$11,499,178 00	\$1,936,901 00	\$1,471,094 94 ²
Boston Elevated,	26,879,400 00	29,586,828 13	20,976,964 65	21,062,692 82	17,996,097 32	6,053,301 52	2,986,706 02 ²
All other roads,	33,412,300 00	34,789,565 89	15,012,971 20	15,073,594 35	12,975,819 57	2,365,553 91	267,779 13 ²
Total,	\$84,823,200 00	\$89,266,374 02	\$47,892,919 91	\$48,101,271 23	\$42,471,094 89	\$10,355,756 43	\$4,725,580 09 ²

¹ Estimated.² Deficit.

TABLE II. — *Income Statement, 1917.*

COMPANY.	Passenger Revenue.	Other Operating Revenue.	Total Operating Revenue.	Conducting Transportation.	Depreciation.	Other Operating Expenses.	Total Operating Expenses.
Berkshire,	\$1,000,399 48	\$84,315 94	\$1,093,715 42	\$292,080 43	\$57,085 04	\$602,319 00	\$852,084 47
Blue Hill,	84,230 20	4,239 20	88,469 40	24,601 05	1,642 20	52,446 94	78,690 19
Boston & Worcester,	704,483 41	150,681 06	855,165 07	212,258 88	12,000 00	367,584 19	591,843 07
Brockton & Plymouth,	113,351 83	10,734 43	124,086 26	35,631 69	2,493 60	80,529 91	118,655 20
Concord, Maynard & Hudson,	76,965 78	1,029 91	78,995 69	17,181 17	1,073 72	52,408 70	70,503 73
Connecticut Valley,	230,437 83	22,131 37	252,569 20	56,803 16	1,073 72	136,173 25	194,050 13
East Taunton,	48,186 82	150 00	48,336 82	8,981 42	2,596 51	25,647 30	37,225 23
Fitchburg & Leominster,	383,381 31	18,798 49	402,179 80	99,840 00	1,500 00	192,567 85	293,907 85
Holyoke,	700,076 86	17,057 13	717,133 69	203,824 64	7,037 46	346,956 16	557,818 26
Interstate Consolidated,	170,247 33	24,191 05	194,438 38	67,234 21	—	104,299 72	171,533 93
Linwood,	23,119 75	669 41	23,789 16	8,431 86	2,271 35	7,057 94	17,761 15
Lowell & Fitchburg,	95,836 20	3,547 73	99,383 93	18,512 49	750 00	46,987 36	66,249 85
Massachusetts Northeastern,	801,141 91	25,329 44	826,471 35	208,280 98	3,122 40	493,433 68	704,837 06
Middlesex & Boston,	1,045,441 26	33,373 57	1,078,814 83	350,910 02	12,856 00	491,380 95	855,146 97
Milford, Attleboro & Woonsocket,	96,810 10	11,321 93	108,132 03	36,331 48	2,457 51	59,349 80	98,349 80
Milford & Uxbridge,	269,287 69	45,804 01	315,091 70	94,081 11	4,934 88	154,219 17	253,235 16
Nahant & Lynn,	42,499 66	—	42,499 66	14,422 80	1,134 80	25,361 09	40,918 49
New Bedford & Onset,	125,884 67	64,719 55	190,604 22	36,346 13	2,276 22	114,020 96	152,043 31
Norfolk & Bristol,	100,122 87	1,036 01	101,158 88	28,866 11	3,408 16	58,005 91	90,280 18
Northampton,	290,331 55	5,411 67	295,743 22	56,427 82	2,585 80	118,775 19	177,788 81
Northern Massachusetts,	207,845 16	28,577 75	236,422 91	62,099 19	2,354 08	122,924 98	187,378 25
Norton, Taunton & Attleboro,	63,969 33	1,026 05	64,995 38	19,808 39	—	43,274 15	63,082 54
Pont Shirely,	8,957 80	—	8,957 80	4,383 89	—	5,818 19	10,202 08
Swansea & Seekonk,	22,624 92	21,584 39	44,209 31	10,926 53	744 30	32,650 87	44,321 70
Shelburne Falls & Colrain,	11,043 93	17,315 72	28,359 65	6,042 05	302 23	14,281 33	20,625 61
Springfield,	2,372,143 47	123,091 51	2,495,234 98	928,734 98	40,631 73	1,396,513 22	2,365,879 92
Union,	1,055,934 29	99,929 44	1,155,863 73	352,084 53	92,650 15	424,708 53	869,542 31
Worcester Consolidated,	3,201,766 09	147,309 24	3,349,075 33	976,506 85	61,265 64	1,389,278 23	2,427,050 72
Totals,	\$13,285,517 60	\$963,977 20	\$14,249,494 80	\$4,232,233 26	\$320,096 37	\$9,959,275 04	\$11,511,605 27

TABLE II. — *Income Statement, 1917* — Concluded.

COMPANY.	Net Revenue Railway Operations.	Taxes.	Operating Income.	Non- operating Income.	Gross Income.	Deductions from Gross Income.	Profit and Loss.
Berkshire,	\$141,630 95	\$59,006 14	\$81,724 81	\$1,891 56	\$83,546 37	\$317,907 50	\$234,361 13 ¹
Blue Hill,	9,779 21	2,828 41	6,950 80	5 06	6,955 86	21,498 40	14,542 54 ¹
Boston & Worcester,	263,322 00	55,293 45	208,028 55	463 72	208,492 27	121,886 74	88,605 53
Brockton & Plymouth,	5,431 06	5,947 15	516 09 ¹	230 16	285 93 ¹	14,931 92	15,217 85 ¹
Concord, Maynard & Hudson,	8,091 96	3,322 52	4,769 44	1,619 25	6,388 69	15,738 87	9,350 18 ¹
Connecticut Valley,	58,519 07	9,128 09	49,390 98	6,894 41	56,285 39	46,409 80	9,845 59
East Taunton,	11,111 29	3,309 26	7,802 03	638 16	8,440 19	2,250 00	6,190 19
Fitchburg & Leominster,	108,271 95	20,836 24	87,435 71	1,373 01	88,807 72	59,467 52	29,340 20
Holyoke,	159,315 43	43,945 28	115,370 15	404 48	115,774 63	75,055 91	40,718 72
Interstate Consolidated,	22,904 45	6,395 70	16,508 75	1,258 48	17,767 23	14,300 20	3,467 03
Linwood,	6,028 01	903 80	5,124 21	—	5,124 21	—	5,124 21
Lowell & Fitchburg,	33,134 08	2,132 14	31,001 94	1,778 58	32,780 52	13,775 69	19,004 83
Massachusetts Northeastern,	121,634 29	31,715 30	89,918 99	24,350 68	114,269 67	72,553 04	41,716 63
Middlesex & Boston,	223,667 86	36,827 84	186,840 02	666 51	187,506 53	155,886 20	31,620 33
Milford, Attleboro & Woonsocket,	9,732 23	3,566 69	6,215 54	851 95	7,067 49	15,331 81	8,264 32 ¹
Milford & Uxbridge,	61,856 54	12,905 47	48,951 07	—	48,951 07	30,916 92	18,034 15
Nahant & Lynn,	1,581 17	2,337 86	806 69 ¹	—	806 69 ¹	6,423 32	7,230 01 ¹
New Bedford & Onset,	37,960 91	8,333 20	29,627 71	—	29,627 71	21,015 99	8,611 72
Norfolk & Bristol,	10,878 40	3,376 31	7,502 09	803 63	8,305 72	10,000 00	1,694 28 ¹
Northampton,	47,954 41	20,920 90	27,033 51	997 20	28,030 71	2,526 65	25,504 06
Northern Massachusetts,	49,044 66	9,333 25	39,691 41	10,984 54	50,675 95	41,939 58	8,736 37
Norton, Taunton & Attleboro,	1,910 44	1,517 21	363 23	—	363 23	3,567 88	3,204 75 ¹
Point Shirley,	1,244 28 ¹	63 63	1,307 91 ¹	44 29	1,263 62 ¹	170 00	1,433 62 ¹
Swansea & Seekonk,	112 39 ¹	1,088 34	1,170 73 ¹	43 89	1,126 84 ¹	10,115 90	11,242 74 ¹
Shelburne Falls & Colrain,	7,731 04	1,342 54	6,391 50	—	6,391 50	4,879 46	1,512 04
Springfield,	129,355 66	117,144 83	12,210 83	2,278 90	14,489 73	147,668 99	133,179 26 ¹
Union,	286,321 52	95,215 77	191,105 75	—	191,105 75	21,801 47	169,304 28
Worcester Consolidated,	922,024 61	235,441 69	686,582 92	12,540 60	699,123 52	290,843 42	408,280 10
Totals,	\$2,737,889 53	\$795,149 01	\$1,942,740 52	\$70,018 06	\$2,012,758 58	\$1,541,863 28	\$470,895 30

1 Deficit.

TABLE III. — *Income Statement, 1918.*

COMPANY.	Passenger Revenue.	Other Operating Revenue.	Total Operating Revenue.	Conducting Transportation.	Depreciation.	Other Operating Expenses.	Total Operating Expenses.
Berkshire, Blue Hill, Boston & Worcester, Brockton & Plymouth, Concord, Maynard & Hudson, Connecticut Valley, East Taunton, Fitchburg & Leominster, Holyoke, Interstate Consolidated, Linwood, Lowell & Fitchburg, Massachusetts Northeastern, Middlesex & Boston, Milford, Attleboro & Woonsocket, Milford & Uxbridge, Nahant & Lynn, New Bedford & Onset, Norfolk & Bristol, Northampton, Northern Massachusetts, Norton, Taunton & Attleboro, Point Shirley, Swansea & Seekonk, Shelburne Falls & Colrain, Springfield, Union, Worcester Consolidated,	\$800,111 35 76,879 25 675,510 78 94,152 36 62,227 62 203,626 51 45,973 50 442,853 50 683,676 17 155,446 19 22,650 47 122,913 76 741,901 36 941,893 26 103,951 99 280,790 82 57,006 38 116,400 57 94,195 03 197,546 98 192,252 35 69,455 63 8,076 00 25,041 11 9,599 56 2,460,196 55 1,050,544 95 3,170,373 04	\$56,657 70 1,408 76 200,756 13 7,114 35 820 18 21,265 23 45,123 50 20,383 27 18,513 01 30,727 61 7,727 09 3,190 54 17,541 39 27,943 34 12,273 23 33,203 61 72 00 106,774 59 963 25 5,829 64 24,629 92 2,637 98 17,425 71 18,250 29 128,264 80 94,567 79 153,331 63	\$856,769 05 78,283 01 876,266 91 101,266 71 63,047 80 224,891 74 46,123 50 463,236 77 702,189 18 186,173 80 23,377 56 126,104 30 759,442 75 969,836 60 116,225 22 314,054 43 57,678 38 223,175 16 95,148 28 203,376 62 216,882 27 72,093 61 8,076 00 42,406 82 27,849 85 2,588,461 35 1,145,112 74 3,328,704 67	\$267,960 21 25,068 26 255,543 26 34,957 10 15,200 00 66,500 00 9,837 30 111,429 89 210,016 28 67,184 10 10,607 81 26,441 20 216,232 73 330,264 24 43,134 12 97,667 43 18,767 56 35,353 52 36,710 23 56,016 27 65,000 00 20,731 00 4,268 80 10,662 32 4,521 84 990,924 11 397,276 35 1,096,135 77	\$9,059 14 1,642 20 12,000 00 2,493 34 132 60 2,153 40 2,506 51 1,500 00 7,200 00 — 2,065 21 750 00 3,573 78 — 2,555 81 7,500 00 1,134 60 2,589 23 3,793 17 2,567 44 2,351 16 — 100 00 992 40 302 23 44,557 88 69,848 71 65,932 57	\$760,579 00 54,222 64 431,306 28 73,041 71 51,967 40 136,346 60 28,030 12 240,884 33 355,933 46 84,922 32 5,036 61 63,648 87 482,047 97 458,894 08 69,975 90 155,583 83 30,090 64 157,559 65 65,379 67 123,797 56 137,148 84 50,269 00 7,647 70 29,507 76 17,352 44 1,221,558 82 410,380 67 1,568,904 90	\$1,037,598 35 80,933 10 698,849 54 110,492 15 67,300 00 205,000 00 35,493 93 333,814 22 573,149 74 152,106 42 17,709 63 90,840 07 701,854 48 789,158 32 115,665 83 290,751 26 49,992 40 105,833 17 182,381 27 205,100 00 71,000 00 12,016 50 41,162 48 22,176 51 2,257,040 81 877,505 73 2,730,973 24
Totals,	\$12,905,547 04	\$1,010,473 04	\$13,916,320 08	\$4,555,011 80	\$249,361 38	\$7,267,018 77	\$12,041,391 95

TABLE III. — *Income Statement, 1918* — Concluded.

COMPANY.	Net Revenue Railway Operations.	Taxes.	Operating Income.	Non- operating Income.	Gross Income.	Deductions from Gross Income.	Profit and Loss.
Berkshire,	\$180,829 30 ¹	\$61,843 32	\$242,672 62 ¹	\$1,075 85	\$241,596 77 ¹	\$319,637 25	\$561,234 02 ¹
Blue Hill,	2,645 09 ¹	2,724 53	5,369 62 ¹	—	5,369 62 ¹	21,221 51	26,591 13 ¹
Boston & Worcester,	177,417 37	55,086 55	119,330 82	398 90	119,729 72	133,621 59	13,891 87 ¹
Brockton & Plymouth,	9,225 44 ¹	5,677 79	14,903 23 ¹	162 98	14,740 25 ¹	16,981 10	31,721 35 ¹
Concord, Maynard & Hudson,	4,252 20 ¹	2,455 67	6,707 87 ¹	464 16	6,243 71 ¹	15,500 00	21,743 71 ¹
Connecticut Valley,	19,891 74	8,925 28	10,966 46	3,280 84	14,247 30	43,300 00	29,052 70 ¹
East Taunton,	10,659 57	3,483 51	7,175 06	834 76	8,010 82	1,398 36	6,612 46
Fitchburg & Leominster,	109,422 55	21,808 90	87,613 65	199 30	87,812 86	69,019 74	18,793 12
Holyoke,	129,039 44	42,069 46	86,979 98	4,111 73	91,081 71	78,058 69	13,023 02
Interstate Consolidated,	34,067 38	8,742 00	25,325 38	916 73	26,242 11	13,041 87	13,200 24
Linwood,	5,667 93	1,395 40	4,272 53	59 60	4,332 13	869 81	3,662 32
Lowell & Fitchburg,	35,264 23	6,052 98	29,211 25	2,547 16	31,758 41	13,750 00	18,008 41
Massachusetts Northeastern,	57,588 27	28,357 66	29,230 61	22,760 93	51,991 54	76,722 32	24,730 78 ¹
Middlesex & Boston,	180,678 28	37,365 15	143,313 13	734 89	144,048 02	151,444 68	10,396 60 ¹
Milford, Attleboro & Woonsocket,	559 39	3,552 92	2,993 53 ¹	801 33	2,192 20 ¹	15,986 20	18,178 40 ¹
Milford & Uxbridge,	53,303 17	13,540 05	39,763 12	10,324 37	50,087 49	45,518 33	4,569 16
Nahant & Lynn,	7,685 58	1,979 87	5,705 71	—	5,705 71	6,464 88	759 17 ¹
New Bedford & Onset,	27,672 76	5,374 20	22,298 56	—	22,298 56	21,170 23	1,128 33
Norfolk & Bristol,	10,704 99 ¹	3,128 42	13,833 31 ¹	8 45	13,824 86 ¹	10,000 00	23,824 86 ¹
Northampton,	20,995 35	19,539 11	1,456 24	1,588 75	3,044 99	4,202 19	1,157 20 ¹
Northern Massachusetts,	11,782 27	9,334 74	2,447 53	3,100 68	5,548 21	42,000 00	36,451 79 ¹
Norton, Taunton & Attleboro,	1,093 61	1,575 85	482 24 ¹	—	482 24 ¹	4,660 00	5,142 24 ¹
Point Shirley,	3,940 50 ¹	63 09	4,003 59 ¹	18 25	3,985 31 ¹	4,136 00	4,121 31 ¹
Swansea & Seekonk,	1,304 34	2,670 65	1,366 31 ¹	835 34	530 97 ¹	1,898 40	2,429 37 ¹
Shelburne Falls & Colrain,	5,673 34	1,149 51	4,523 83	—	4,523 83	5,036 46	512 63 ¹
Springfield,	331,420 54	99,965 56	231,454 98	3,868 65	235,323 63	179,563 87	55,759 76
Union,	267,607 01	86,807 61	180,799 40	2,465 76	183,265 16	43,792 16	139,473 00
Worcester Consolidated,	597,731 43	153,622 46	444,108 97	13,008 52	457,117 49	308,431 99	148,685 50
Totals,	\$1,874,928 13	\$691,292 30	\$1,183,635 83	\$73,567 93	\$1,257,203 76	\$1,646,227 63	\$389,023 87 ¹

1 Deficit.

TABLE IV. — *Income Statement, 1919.*¹

COMPANY.	Passenger Revenue.	Other Operating Revenue.	Total Operating Revenue.	Conducting Transportation.	Depreciation.	Other Operating Expenses.	Total Operating Expenses.
Berkshire,	\$1,023,623 35	\$80,607 78	\$1,084,231 13	\$866,193 05	\$10,000 00	\$811,405 30	\$1,187,598 35
Blue Hill,	90,000 00	3,000 00	93,000 00	25,068 26	1,642 20	48,289 54	73,000 00
Boston & Worcester,	711,147 00	230,740 00	941,887 00	295,543 00	12,000 00	441,306 00	748,849 00
Brockton & Plymouth,	112,982 00	2,300 00	115,282 00	35,000 00	2,400 00	72,600 00	110,000 00
Concord, Maynard & Hudson,	75,250 00	800 00	76,050 00	16,000 00	262 20	49,737 80	66,000 00
Connecticut Valley,	234,000 00	25,000 00	259,000 00	70,000 00	2,120 40	127,879 60	200,000 00
East Taunton,	51,173 00	150 00	51,323 00	14,960 40	2,896 51	44,373 78	62,230 69
Fitchburg & Leominster,	521,000 00	20,000 00	541,000 00	139,000 00	1,500 00	250,500 00	391,000 00
Holyoke,	783,500 00	17,235 00	800,735 00	231,970 00	7,200 00	361,935 00	604,105 00
Interstate Consolidated,	177,000 00	27,900 00	204,900 00	75,000 00	—	103,600 00	178,600 00
Linwood,	22,650 47	727 09	23,377 56	11,668 39	1,800 00	3,301 82	18,770 41
Lowell & Fitchburg,	135,000 00	4,000 00	139,000 00	32,500 00	750 00	62,250 00	98,500 00
Massachusetts Northeastern,	817,000 00	17,500 00	834,500 00	259,500 00	3,573 78	481,926 22	748,500 00
Middlesex & Boston,	941,893 26	27,943 34	969,836 60	360,000 00	—	514,500 00	874,500 00
Milford, Attleboro & Woonsocket,	120,000 00	11,200 00	131,200 00	48,000 00	2,650 00	70,250 00	120,900 00
Milford & Uxbridge,	308,923 52	33,263 61	342,187 13	108,197 01	17,230 00	162,908 81	288,035 82
Nahant & Lynn,	57,608 38	72 00	57,678 38	18,767 56	1,134 60	30,090 64	49,992 80
New Bedford & Onset,	120,000 00	105,000 00	225,000 00	40,000 00	2,500 00	159,500 00	202,000 00
Norfolk & Bristol,	94,135 03	953 25	95,148 28	36,710 33	3,763 17	65,379 67	105,853 17
Northampton,	246,000 00	6,000 00	251,000 00	59,900 00	2,575 00	134,925 00	197,400 00
Northern Massachusetts,	232,000 00	30,000 00	262,000 00	69,000 00	2,125 14	128,874 86	200,000 00
Norton, Taunton & Attleboro,	73,000 00	1,000 00	74,000 00	22,000 00	—	51,000 00	73,000 00
Point Shirley,	8,076 00	—	8,076 00	4,268 80	100 00	7,647 70	12,016 80
Swansea & Seekonk,	25,041 11	17,425 71	42,466 82	10,662 32	992 40	29,507 76	41,162 48
Shelburne Falls & Colrain,	11,500 00	17,500 00	29,000 00	6,300 00	302 23	16,697 77	23,300 00
Springfield,	2,576,700 00	124,000 00	2,700,700 00	1,100,000 00	48,000 00	1,192,500 00	2,340,500 00
Union,	1,100,000 00	93,392 00	1,193,392 00	472,276 35	70,000 00	415,229 00	957,505 35
Worcester Consolidated,	3,323,000 00	142,000 00	3,467,000 00	1,206,000 00	71,000 00	1,727,000 00	3,004,000 00
Totals,	\$13,993,261 12	\$1,019,709 78	\$15,012,970 90	\$5,137,485 67	\$268,517 63	\$7,569,816 27	\$12,975,819 57

¹ Estimated.

TABLE IV. — *Income Statement, 1919* ¹ — Concluded.

COMPANY.	Net Revenue Railway Operations.	Taxes.	Operating Income.	Non- operating Income.	Gross Income.	Deductions from Gross Income.	Profit and Loss.
Berkshire,	\$103,367 22 ²	\$64,199 59	\$167,566 81 ²	\$1,075 85	\$166,490 96 ²	\$319,637 25	\$486,128 21 ²
Blue Hill,	18,000 00	2,822 90	15,177 10	—	15,177 10	22,000 00	6,822 90 ²
Boston & Worcester,	193,038 00	59,863 67	133,174 33	400 00	133,574 33	140,000 00	6,425 67 ²
Brockton & Plymouth,	5,282 00	5,500 00	218 00 ²	—	218 00 ²	17,400 00	17,618 00 ²
Concord, Maynard & Hudson,	10,050 00	3,500 00	6,550 00	950 00	7,500 00	16,000 00	8,500 00 ²
Connecticut Valley,	59,000 00	9,500 00	49,500 00	3,000 00	52,500 00	43,000 00	9,500 00 ²
East Taunton,	10,907 69 ²	3,502 52	14,500 21 ²	325 00	14,175 21 ²	1,050 00	15,225 21 ²
Fitchburg & Leominster,	150,000 00	25,000 00	125,000 00	200 00	125,200 00	72,000 00	53,200 00
Holyoke,	196,630 00	46,828 00	149,802 00	200 00	150,002 00	78,058 00	71,944 00
Interstate Consolidated,	26,300 00	7,400 00	18,900 00	500 00	19,400 00	13,000 00	6,400 00
Lynn,	4,607 15	1,395 40	3,211 75	59 60	3,271 35	700 00	2,571 35
Lovell & Fitchburg,	40,500 00	7,420 00	33,080 00	2,500 00	35,580 00	13,750 00	21,830 00
Massachusetts Northeastern,	89,500 00	27,531 28	61,968 72	25,000 00	86,968 72	76,722 32	10,246 40
Middlesex & Boston,	95,338 60	36,416 90	58,919 70	734 89	59,654 59	154,444 68	94,790 09 ²
Millford, Attleboro & Woonsocket,	10,300 00	3,820 00	6,480 00	800 00	7,280 00	16,000 00	8,720 00 ²
Millford & Uxbridge,	54,151 31	14,300 36	39,850 95	4,016 32	43,867 27	45,353 31	1,986 04 ²
Nahant & Lynn,	7,685 58	1,979 87	5,705 71	—	5,705 71	6,464 88	759 17 ²
New Bedford & Onset,	23,000 00	5,000 00	18,000 00	—	18,000 00	21,100 00	3,100 00 ²
Norfolk & Bristol,	10,704 89 ²	3,128 42	13,833 31 ²	8 45	13,824 86 ²	10,000 00	3,824 86 ²
Northampton,	53,600 00	18,917 00	34,683 00	1,500 00	36,183 00	4,200 00	31,983 00
Northern Massachusetts,	62,000 00	9,700 00	52,300 00	3,000 00	55,300 00	43,000 00	12,300 00 ²
Norton, Taunton & Attleboro,	1,000 00	1,680 00	680 00 ²	—	680 00 ²	7,680 00	8,360 00 ²
Point Shirley,	3,940 50 ²	63 00	4,003 50 ²	18 00	3,985 50 ²	136 00	4,121 50 ²
Swansea & Seekonk,	1,304 34	2,670 65	1,366 31 ²	835 34	530 97 ²	1,898 40	2,429 37 ²
Shelburne Falls & Colrain,	5,700 00	1,149 51	4,550 49	—	4,550 49	5,000 00	449 51 ²
Springfield,	360,200 00	104,200 00	256,000 00	3,500 00	259,500 00	179,600 00	79,900 00
Union,	235,886 65	90,000 00	145,886 65	—	145,886 65	35,000 00	110,886 65
Worcester Consolidated,	463,000 00	156,280 00	306,720 00	12,000 00	318,720 00	308,000 00	10,720 00
Totals,	\$2,037,151 33	\$713,859 07	\$1,323,292 26	\$60,623 45	\$1,383,915 71	\$1,651,694 84	\$267,779 13 ²

¹ Estimated.² Deficit.

TABLE V. — Operating Revenues and Expenses per Car Mile and Ratio of Operating Expenses to Operating Revenues for the Years 1917, 1918 and 1919.¹

COMPANY.	OPERATING REVENUE PER CAR MILE (CENTS.).			OPERATING EXPENSES PER CAR MILE (CENTS.).			RATIO OF OPERATING EXPENSES TO OPERATING REVENUE (PER CENT.).		
	1917.	1918.	1919. ¹	1917.	1918.	1919. ¹	1917.	1918.	1919. ¹
Bay State,	33.50	40.08	45.07	26.57	41.29	43.55	79.29	103.03	96.61
Berkshire,	28.97	34.16	37.59	26.05	41.37	41.17	89.93	121.10	109.53
Blue Hill,	25.65	25.75	27.00	26.62	26.62	21.77	88.95	103.38	80.64
Boston Elevated,	33.19	39.56	39.56	22.81	33.94	33.94	68.65	85.79	85.79
Boston & Worcester,	42.00	48.34	51.98	29.07	38.55	31.33	69.21	79.75	79.50
Brockton & Plymouth,	26.19	24.21	27.58	25.04	26.41	26.33	95.62	109.11	95.42
Concord, Maynard & Hudson,	30.15	34.83	33.78	27.05	37.18	29.33	89.70	106.74	86.79
Connecticut Valley,	31.86	39.58	41.44	24.48	36.08	32.00	76.83	91.16	77.30
East Taunton,	29.92	28.43	30.18	25.27	21.86	36.70	77.01	76.89	121.25
Fitchburg & Leominster,	34.71	40.68	47.42	25.37	31.07	34.26	73.08	76.38	72.28
Holyoke,	31.13	37.56	43.28	24.21	30.66	32.65	77.78	81.62	75.46
Interstate Consolidated,	26.49	33.22	33.59	23.37	27.14	29.28	88.22	81.70	87.16
Linwood,	35.59	38.32	38.32	26.57	29.03	30.77	74.66	75.76	80.29
Lowell & Fitchburg,	35.46	35.76	39.66	23.64	25.76	28.10	66.66	72.03	70.87
Massachusetts Northeastern,	30.99	34.13	37.50	26.43	31.54	33.48	85.28	92.42	79.73
Middlesex & Boston,	28.57	34.08	30.98	22.65	27.73	27.93	79.26	81.37	90.17
Millford, Attleboro & Woonsocket,	25.02	27.99	30.51	22.76	27.06	28.11	90.95	99.52	92.15
Millford & Uxbridge,	26.12	27.19	30.49	20.99	23.24	25.67	80.36	83.03	84.18
Nahant & Lynn,	35.02	38.05	38.05	33.72	32.98	32.98	96.27	86.68	86.68
New Bedford & Onset,	38.67	53.06	53.50	30.97	46.48	48.02	80.08	87.60	89.79
Norfolk & Bristol,	22.25	23.48	23.83	19.86	26.35	37.63	89.25	111.25	111.25
Northampton,	29.12	33.47	42.55	22.93	30.01	33.43	78.75	89.07	78.65
Northern Massachusetts,	30.01	37.67	41.92	22.93	35.62	32.00	76.34	94.57	76.34
Norton, Taunton & Attleboro,	19.82	22.74	24.66	24.50	22.40	24.33	97.06	98.49	98.66
Pont Shirley,	28.88	26.40	26.13	32.89	30.33	39.36	113.89	148.80	148.80
Swansea & Seekonk,	31.71	33.54	33.54	31.79	32.51	32.51	100.25	96.92	96.93
Shelburne Falls & Colrain,	44.22	50.82	52.92	32.16	40.47	42.52	72.72	79.63	80.34
Springfield,	28.76	34.47	34.71	27.27	30.05	30.00	94.82	87.20	86.66
Union,	38.12	39.37	41.03	28.68	30.17	32.92	75.22	76.63	80.23
Worcester Consolidated,	34.45	37.62	37.28	24.96	30.86	32.30	72.47	82.04	86.64
Averages,	32.77	38.56	40.10	24.60	34.70	35.56	75.07	89.99	88.68

¹ Estimated.

TABLE VI. — Statement of Amount required to pay Stated Dividends on the Preferred Stock of the Following Companies, also Dividends on the Common Stock and Premiums at a Rate equal to the Average Rate paid on Common Stock during the Years 1913, 1914 and 1915, but in no Case at a Rate in Excess of Five Per Cent.

COMPANY.	Preferred Stock.	Rate (Per Cent).	Return on Preferred Stock.	Total Common Stock and Premiums.	Total Rate for 1913-14 and 1915 (Per Cent).	Average Rate for Three Years, up to 5 Per Cent. (Per Cent).	Return on Common Stock and Premiums.	Total Return on Preferred Stock and Common Stock and Premiums.
Berkshire,	—	—	—	—	—	—	—	—
Blue Hill,	—	—	—	—	—	—	—	—
Boston & Worcester,	\$457,200 00	6	\$27,432 00	\$2,064,720 00	8.00	2.66	\$54,921 55	\$52,353 55
Brockton & Plymouth,	110,000 00	6	6,600 00	—	—	—	—	6,000 00
Concord, Maynard & Hudson,	—	—	—	235,000 00	7.00	2.33	5,475 50	5,475 50
Connecticut Valley,	120,000 00	6	7,200 00	500,000 00	8.50	2.83	14,150 00	21,350 00
East Taunton,	—	—	—	97,800 00	15.00	5.00	4,890 00	4,890 00
Fitchburg & Leominster,	—	—	—	450,000 00	18.00	5.00	22,500 00	22,500 00
Holyoke,	—	—	—	1,618,160 00	24.00	5.00	80,908 00	80,908 00
Interstate Consolidated,	—	—	—	275,000 00	13.00	4.33	11,907 50	11,907 50
Linwood,	—	—	—	12,000 00	18.00	5.00	600 00	600 00
Lowell & Fitchburg,	—	—	—	—	—	—	—	—
Massachusetts Northeastern,	665,000 00	6	39,900 00	—	—	—	—	39,900 00
Middlesex & Boston,	—	—	—	1,987,000 00	12.00	4.00	79,480 00	79,480 00
Milford, Attleboro & Woonsocket,	—	—	—	315,000 00	16.00	5.00	13,750 00	13,750 00
Milford & Uxbridge,	100,000 00	6	6,000 00	440,000 00	15.00	5.00	22,000 00	28,000 00
Nahant & Lynn,	—	—	—	100,000 00	24.00	5.00	5,000 00	5,000 00
New Bedford & Onset,	—	—	—	550,000 00	6.00	2.00	11,000 00	11,000 00
Norfolk & Bristol,	—	—	—	200,000 00	3.00	1.00	2,000 00	2,000 00
Northampton,	—	—	—	860,000 00	16.00	5.00	43,000 00	43,000 00
Norton & Taunton,	150,000 00	6	9,000 00	350,000 00	8.00	2.66	9,310 00	18,310 00
Point Shirley,	—	—	—	—	—	—	—	—
Shelburne Falls & Colrain,	—	—	—	50,000 00	13.50	4.50	2,250 00	2,250 00
Springfield,	—	—	—	4,933,874 89	20.50	5.00	246,693 74	246,693 74
Union,	—	—	—	2,983,300 00	24.00	5.00	149,165 00	149,165 00
Worcester Consolidated,	3,600,000 00	\$5 ¹	240,000 00	3,553,296 00	17.50	5.00	177,664 80	417,664 80
Totals,	—	—	\$336,132 00	—	—	—	\$958,666 09	\$1,294,798 09

¹ Per share; par value, \$80.

TABLE VII. — *Taxes, 1918.*

COMPANY.	Real Estate and Machinery.	Franchise.	Excise.	MISCELLANEOUS.			
				State Income.	Federal.	Other Taxes.	Total Taxes.
Bay State,	\$149,887 00	\$12,825 00	\$227,383 00	—	\$7,964 00	\$316 00	\$398,375 00
Berkshire,	38,601 90	4,255 77	15,972 54	—	3,013 11	—	61,843 32
Blue Hill,	749 26	—	1,651 63	\$174 50	21 43	127 71	2,724 53
Boston Elevated,	529,238 27	198,893 10	—	21,638 86	167,309 65	345 61	917,515 49
Boston & Worcester,	22,904 01	9,432 34	19,101 17	872 11	5,776 92	—	58,086 55
Brookton & Plymouth,	3,370 78	—	2,153 46	153 55	—	—	5,677 79
Concord, Maynard & Hudson,	1,466 89	296 51	649 62	—	42 65	—	2,455 67
Connecticut Valley,	3,237 11	307 21	4,619 46	154 61	606 89	—	8,925 28
East Taunton,	134 62	1,996 62	918 46	100 00	333 81	—	3,483 51
Fitchburg & Leominster,	7,242 52	2,507 99	9,949 82	300 56	1,808 10	—	21,808 99
Holyoke,	20,817 17	500 97	15,711 32	481 59	4,558 41	—	42,069 46
Interstate Consolidated,	1,234 38	379 40	4,120 85	38 31	2,959 06	10 00	8,742 00
Linwood,	—	286 05	521 76	52 09	535 50	—	1,395 40
Lovell & Fitchburg,	718 76	2,507 99	1,462 33	191 30	1,149 77	22 83	6,032 98
Massachusetts Northeastern,	9,097 52	6,285 41	10,790 83	278 44	1,905 46	—	28,337 66
Middlesex & Boston,	11,085 21	1,585 67	23,116 08	312 52	1,265 67	—	37,365 15
Millford, Attleboro & Woonsocket,	2,027 77	—	1,150 57	—	371 83	2 75	3,552 92
Millford & Uxbridge,	6,319 16	364 90	5,339 54	177 37	1,339 08	—	13,540 05
Nahant & Lynn,	388 88	1,113 68	477 31	—	—	—	1,979 87
New Bedford & Onset,	3,301 34	—	1,305 57	86 56	680 73	—	5,374 20
Norfolk & Bristol,	1,249 34	—	1,669 89	209 19	209 19	—	3,128 42
Northampton,	5,235 45	4,748 94	5,829 64	289 02	3,436 06	—	19,539 11
Northern Massachusetts,	4,292 08	—	4,329 62	61 95	651 09	—	9,334 74
Norton, Taunton & Attleboro,	878 58	—	697 27	—	—	—	1,575 85
Point Shirley,	63 06	—	—	—	—	—	63 06
Swarsea & Seekonk,	354 20	1,424 52	891 93	—	—	—	2,670 65
Shelburne Falls & Colrain,	367 85	343 26	278 85	44 52	115 03	—	1,149 51
Springfield,	39,981 00	6,375 31 ¹	57,598 86	—	8,447 56	313 45	99,965 56
Union,	22,964 84	22,908 12	27,581 00	1,630 10	11,733 55	—	86,807 61
Worcester Consolidated,	68,930 76	13,581 53 ¹	73,943 95	4,561 20	19,526 16	241 92	153,622 46
Totals,	\$956,129 71	\$253,006 61	\$519,216 33	\$31,599 16	\$245,850 71	\$1,380 27	\$2,007,182 79

¹ Credit.

TABLE VIII. — Estimate of Additional Tax up to and not exceeding \$2 per \$1,000 of Assessed Valuation necessary to meet Deficiencies in Revenues of Street Railway Companies upon Basis of Results of Operation for 1918 adjusted by Additional Allowances for Depreciation and Return on Stock and by the Elimination of Excise and Franchise Taxes.

COMPANY.	Profit and Loss.	Additional Allowance for Depreciation.	Return on Stock.	Deficit.	Excise and Franchise Tax.	Additional Revenue required.	Assessed Valuation of District.	Additional Tax per \$1,000.
Berkshire,	\$561,294 02 ¹	\$175,397 00	—	\$736,631 02	\$20,228 31	\$716,402 71	\$104,630,656	\$2 00
Blue Hill,	26,591 13 ¹	10,232 00	—	36,823 13	1,651 63	35,171 50	15,993,111	2 00
Boston & Worcester,	13,891 87 ¹	10,975 00	\$82,353 55	178,220 42	28,533 51	149,686 91	53,620,969	2 00
Brookton & Plymouth,	31,721 35 ¹	11,361 00	6,600 00	49,682 35	2,153 46	47,528 89	22,319,507	2 00
Concord, Maynard & Hudson,	21,743 71 ¹	9,470 00	5,475 50	36,698 21	946 13	35,743 08	13,905,916	2 00
Connecticut Valley,	29,032 70 ¹	21,239 00	21,350 00	71,641 70	4,926 67	66,715 03	37,399,111	1 78
East Taunton,	6,612 46	826 00	4,890 00	896 46 ²	3,024 09	3,920 53	5,687,122	—
Fitchburg & Leominster,	18,793 12	27,361 00	22,500 00	31,067 88	12,457 81	18,610 07	45,487,378	41
Holyoke,	13,023 02	48,146 00	80,508 00	116,030 98	16,212 29	99,818 69	98,538,114	1 01
Interstate Consolidated,	13,200 24	9,838 00	11,907 50	8,945 26	4,500 25	4,045 01	23,740,832	17
Linwood,	3,662 32	1,231 00 ⁴	600 00	4,293 32 ²	807 81	5,101 34 ³	1,306,010	—
Lowell & Fitchburg,	18,008 41	11,007 00	—	7,001 41 ²	3,970 32	10,971 73 ³	8,357,317	—
Middlesex & Boston,	10,396 66 ¹	87,685 00	79,480 00	177,561 66	24,701 75	152,859 91	145,339,627	1 04
Milford, Attleboro & Woonsocket,	18,178 40 ¹	8,945 00	15,750 00	42,573 40	1,150 57	41,722 83	9,541,595	2 00
Milford & Uxbridge,	4,569 16	12,642 00	28,000 00	36,072 84	5,704 44	30,368 40	33,963,354	89
Nabant & Lynn,	759 17 ¹	4,316 00	5,000 00	10,075 17	1,590 99	8,484 18	4,240,928	2 00
New Bedford & Onset,	1,128 33	18,003 00	11,000 00	27,574 67	1,305 57	26,569 10	20,962,902	1 26
Norfolk & Bristol,	23,824 86 ¹	4,974 00	2,000 00	30,798 86	1,669 89	29,128 97	16,493,433	1 73
Norhampton,	1,157 20 ¹	13,471 00	43,000 00	57,628 20	10,578 58	47,049 62	26,295,807	1 78
Northern Massachusetts,	36,451 79 ¹	19,844 00	18,310 00	74,065 79	4,329 62	70,276 17	35,706,628	1 96
Norton, Taunton & Attleboro,	5,132 24 ¹	4,337 00	—	9,479 24	697 27	8,781 97	12,031,955	73
Point Shirley,	2,429 37 ¹	276 00	—	4,397 31	—	4,397 31	16,556,950	26
Swansea & Seekonk,	512 63 ¹	862 00	—	3,291 37	2,316 45	974 02	2,646,967	36
Shelburne Falls & Colrain,	55,759 76	142,363 00	2,642 00	5,404 63	622 11	4,782 52	5,323,117	90
Springfield,	139,473 00	7,030 00 ⁴	246,693 74	335,296 98	51,223 55	284,073 43	282,241,129	1 00
Union,	148,685 50	171,964 00	149,165 00	2,661 29	50,459 12	47,827 83 ³	125,986,257	—
Worcester Consolidated,	—	—	417,664 80	440,943 30	60,362 42	380,580 88	289,875,059	1 31
Totals,	\$364,293 09	\$892,914 00	\$1,254,898 09	\$2,512,105 26	\$316,154 61	\$2,195,950 65	\$1,317,855,145	\$1 24 ⁵

1 Loss.

2 Surplus.

3 Amounts in excess of stated revenue requirements.

4 Amount in excess of depreciation allowance.

5 For all companies showing additional revenue requirements.

TABLE IX. — *Assessed Valuation for the Year 1918 in the Transportation Districts served by the Several Street Railway Companies.*

CITY OR TOWN.	Computed Valuation.	Percentage of Total Valuation.
<i>Berkshire.</i>		
Adams,	\$8,151,025	100.00
Becket,	737,058	100.00
Cheshire,	899,336	110.00
Clarksburg,	418,573	100.00
Dalton,	4,122,770	100.00
Egremont,	641,216	100.00
Great Barrington,	7,057,835	100.00
Hinsdale,	772,012	100.00
Lanesborough,	884,675	100.00
Lee,	3,363,862	100.00
Lenox,	7,400,597	100.00
North Adams,	18,216,386	100.00
Otis,	380,232	100.00
Pittsfield,	41,182,245	100.00
Sheffield,	1,139,295	100.00
Stockbridge,	4,510,953	100.00
Williamstown,	4,753,486	100.00
	\$104,630,556	
<i>Blue Hill.</i>		
Canton,	\$5,466,290	100.00
Milton,	7,850,695	43.45
Stoughton,	2,676,126	47.48
	\$15,993,111	
<i>Boston & Worcester.</i>		
Brookline,	\$1,593,069	1.70
Framingham,	14,162,257	75.54
Hudson,	1,358,382	28.88
Marlborough,	6,608,463	56.47
Natick,	3,442,681	40.65
Newton,	11,518,526	15.36
Northborough,	377,171	19.51
Shrewsbury,	2,077,648	57.52
Southborough,	1,771,420	80.66
Wellesley,	9,069,431	59.62
Westborough,	1,641,921	48.95
	\$53,620,969	

TABLE IX. — *Assessed Valuation for the Year 1918 in the Transportation Districts served by the Several Street Railway Companies — Continued.*

CITY OR TOWN.	Computed Valuation.	Percentage of Total Valuation.
<i>Brockton & Plymouth.</i>		
Hanson,	\$2,059,781	100.00
Kingston,	1,627,750	100.00
Pembroke,	1,354,725	100.00
Plymouth,	17,455,580	100.00
Whitman,	321,671	5.63
	\$22,819,507	
<i>Concord, Maynard & Hudson.</i>		
Acton,	\$2,073,281	100.00
Concord,	4,808,536	68.67
Hudson,	1,334,493	28.38
Maynard,	4,547,829	100.00
Stow,	1,141,777	100.00
	\$13,905,916	
<i>Connecticut Valley.</i>		
Amherst,	\$561,913	8.80
Deerfield,	3,697,789	100.00
Greenfield,	14,758,999	100.00
Hatfield,	2,193,173	100.00
Hadley,	2,495,804	100.00
Montague,	8,543,350	100.00
Northampton,	4,341,901	23.03
Whately,	806,182	100.00
	\$37,399,111	
<i>East Taunton.</i>		
Lakeville,	\$171,178	13.97
Middleborough,	595,220	11.82
Taunton,	4,920,724	17.77
	\$5,687,122	
<i>Fitchburg & Leominster.</i>		
Ayer,	\$876,905	28.60
Fitchburg,	33,204,649	77.45
Harvard,	1,925,018	100.00
Leominster,	6,358,342	45.85
Lunenburg,	1,706,168	100.00
Shirley,	1,416,296	100.00
	\$45,487,378	

TABLE IX. — *Assessed Valuation for the Year 1918 in the Transportation Districts served by the Several Street Railway Companies — Continued.*

CITY OR TOWN.	Computed Valuation.	Percentage of Total Valuation.
<i>Holyoke.</i>		
Amherst,	\$5,826,271	91.20
Chicopee,	15,160,791	48.67
Granby,	821,478	100.00
Holyoke,	70,698,522	100.00
Pelham,	523,315	100.00
South Hadley,	4,739,551	100.00
Sunderland	768,186	100.00
	\$98,538,114	
<i>Interstate Consolidated.</i>		
Attleboro,	\$14,529,188	69.48
North Attleborough,	8,332,250	100.00
Plainville,	317,074	28.38
Seekonk,	562,320	26.44
	\$23,740,832	
<i>Linwood.</i>		
Northbridge,	\$1,306,010	24.48
<i>Lowell & Fitchburg.</i>		
Ayer,	\$2,189,280	71.40
Chelmsford,	1,424,465	28.43
Groton,	2,846,503	100.00
Westford,	2,397,069	100.00
	\$8,857,317	
<i>Massachusetts Northeastern.</i>		
Amesbury,	\$7,332,631	100.00
Dracut,	607,014	21.63
Haverhill,	17,996,749	37.77
Lawrence,	10,088,274	11.21
Merrimac,	1,626,208	100.00
Methuen,	6,717,998	48.71
Newburyport,	9,271,074	80.93
Newbury,	625,188	41.61
Salisbury,	1,957,648	100.00
	\$56,222,784	

TABLE IX. — *Assessed Valuation for the Year 1918 in the Transportation Districts served by the Several Street Railway Companies — Continued.*

CITY OR TOWN.	Computed Valuation.	Percentage of Total Valuation.
<i>Middlesex & Boston.</i>		
Arlington,	\$1,229,023	6.21
Ashland,	1,064,049	65.38
Bedford,	1,945,737	100.00
Belmont,	559,914	4.32
Billerica,	1,050,768	16.73
Concord,	2,193,509	31.33
Framingham,	3,584,150	19.12
Hopkinton,	1,320,211	70.30
Lexington,	8,512,637	100.00
Natick,	5,025,569	59.35
Needham,	6,478,155	67.28
Newton,	60,505,829	80.58
Sherborn,	1,609,166	100.00
Waltham,	31,895,380	100.00
Watertown,	6,264,524	25.83
Wayland,	2,419,962	100.00
Wellesley,	6,141,705	40.38
Woburn,	3,746,133	26.64
Westborough,	293,206	8.74
	\$145,839,627	
<i>Milford, Attleboro & Woonsocket.</i>		
Bellingham,	\$1,172,335	6.21
Blackstone,	45,913	2.27
Franklin,	3,261,838	58.50
Hopedale,	1,775,159	41.55
Mendon,	162,384	21.37
Milford,	1,048,622	10.00
Plainville,	800,003	71.62
Wrentham,	1,275,341	72.88
	\$9,541,595	
<i>Milford & Uxbridge.</i>		
Ashland,	\$563,561	34.62
Bellingham,	77,610	93.79
Dedham,	3,043,094	21.56
Dover,	2,667,829	100.00

TABLE IX. — *Assessed Valuation for the Year 1918 in the Transportation Districts served by the Several Street Railway Companies — Continued.*

CITY OR TOWN.	Computed Valuation.	Percentage of Total Valuation.
<i>Milford & Uxbridge — Concluded.</i>		
Framingham,	\$1,001,454	5.34
Franklin,	2,314,213	41.50
Holliston,	2,101,667	100.00
Hopedale,	2,497,352	58.45
Hopkinton,	557,881	29.70
Mendon,	597,751	78.63
Medfield,	2,145,622	100.00
Medway,	1,926,405	100.00
Milford,	9,437,593	90.00
Millis,	1,601,821	100.00
Uxbridge,	1,132,871	26.02
Walpole,	307,891	4.15
Westwood,	1,989,239	78.31
	\$33,963,854	
<i>Nahant & Lynn.</i>		
Lynn,	\$114,657	.12
Nahant,	4,125,871	100.00
	\$4,240,528	
<i>New Bedford & Onset.</i>		
Bourne,	\$5,955,375	100.00
Marion,	3,264,430	100.00
Mattapoisett,	1,859,533	100.00
Middleborough,	2,497,270	49.61
Rochester,	1,092,296	100.00
Wareham,	6,293,998	100.00
	\$20,962,902	
<i>Norfolk & Bristol.</i>		
Foxborough,	\$2,978,735	100.00
Mansfield,	1,262,658	23.73
Norwood,	5,036,519	31.47
Walpole,	6,741,221	90.96
Wrentham,	474,300	27.12
	\$16,493,433	

TABLE IX. — *Assessed Valuation for the Year 1918 in the Transportation Districts served by the Several Street Railway Companies — Continued.*

CITY OR TOWN.	Computed Valuation.	Percentage of Total Valuation.
<i>Northampton.</i>		
Easthampton,	\$10,599,436	100.00
Northampton,	14,507,610	76.97
Williamsburg,	1,188,761	100.00
	\$26,295,807	
<i>Northern Massachusetts.</i>		
Athol,	\$7,481,460	100.00
Fitchburg,	4,289,103	10.00
Gardner,	11,383,012	100.00
Orange,	4,117,945	100.00
Phillipston,	339,701	100.00
Templeton,	2,552,688	100.00
Westminster,	1,008,424	100.00
Winchendon,	4,534,295	100.00
	\$35,706,628	
<i>Norton, Taunton & Attleboro.</i>		
Attleboro,	\$2,881,822	13.78
Mansfield,	4,057,977	76.27
Norton,	1,804,250	100.00
Taunton,	3,287,906	11.88
	\$12,031,955	
<i>Point Shirley.</i>		
Winthrop,	\$16,556,950	100.00
<i>Shelburne Falls & Colrain.</i>		
Buckland,	\$2,284,627	100.00
Colrain,	1,102,265	100.00
Shelburne,	1,936,225	100.00
	\$5,323,117	
<i>Springfield.</i>		
Agawam,	\$4,285,825	100.00
Brimfield,	728,590	100.00
Chicopee,	15,991,829	51.33
East Longmeadow,	1,746,865	100.00

TABLE IX. — *Assessed Valuation for the Year 1918 in the Transportation Districts served by the Several Street Railway Companies — Continued.*

CITY OR TOWN.	Computed Valuation.	Percentage of Total Valuation.
<i>Springfield — Concluded.</i>		
Huntington,	\$892,879	100.00
Longmeadow,	4,245,590	100.00
Ludlow,	7,009,136	100.00
Monson,	2,171,895	100.00
Palmer,	6,891,151	100.00
Russell,	2,096,300	100.00
Springfield,	201,786,769	100.00
Ware,	6,169,240	100.00
Westfield,	13,161,213	100.00
West Springfield,	13,231,440	100.00
Wilbraham,	1,832,407	100.00
	\$282,241,129	
<i>Swansea & Seekonk.</i>		
Rehoboth,	\$21,237	1.81
Seekonk,	800,388	37.63
Swansea,	1,825,342	100.00
	\$2,646,967	
<i>Union.</i>		
Dartmouth,	\$5,902,575	100.00
Fairhaven,	6,138,919	100.00
New Bedford,	110,858,888	84.09
Westport,	3,085,875	100.00
	\$125,986,257	
<i>Worcester Consolidated.</i>		
Auburn,	\$2,100,000	100.00
Berlin,	654,580	100.00
Blackstone,	1,974,231	97.73
Boylston,	610,389	100.00
Charlton,	1,520,684	100.00
Clinton,	9,890,121	100.00
Fitchburg,	5,379,073	12.55
Grafton,	3,475,626	100.00
Holden,	2,057,453	100.00
Hudson,	2,009,977	42.74

TABLE IX. — *Assessed Valuation for the Year 1918 in the Transportation Districts served by the Several Street Railway Companies — Concluded.*

CITY OR TOWN.	Computed Valuation.	Percentage of Total Valuation.
<i>Worcester Consolidated — Concluded.</i>		
Lancaster,	\$2,408,520	100.00
Leicester,	2,678,944	100.00
Leominster,	7,512,048	54.15
Marlborough,	5,094,883	43.53
Millbury,	3,512,255	100.00
Millville,	1,254,151	100.00
Northborough,	1,555,115	80.49
Northbridge,	4,029,306	75.52
Oxford,	2,137,587	100.00
Shrewsbury,	1,534,190	42.48
Southborough,	424,784	19.34
Southbridge,	9,186,335	100.00
Spencer,	3,560,080	100.00
Sterling,	1,390,070	100.00
Sturbridge,	999,700	100.00
Sutton,	1,626,161	100.00
Uxbridge,	3,220,904	73.98
Webster,	6,434,251	100.00
West Boylston,	1,107,280	100.00
Westborough,	1,419,394	42.31
Worcester,	199,116,967	100.00
	\$289,875,059	

Under the special acts of the Boston Elevated and Bay State companies the tax assessment is apportioned on a different basis. If these companies were included in the general plan suggested, the valuation of the respective districts served by the two companies, adjusted on account of the elevated and subway lines in Boston by assigning the assessed valuation of the Hyde Park district of Boston to the Bay State company and the assessed valuation of the remainder of the city to the Boston Elevated company, would be as follows: —

Bay State Street Railway Company,	\$1,117,669,855
Boston Elevated Railway Company,	1,937,621,713

Report of the Public Service Commission under the Resolve of the General Court providing for an Investigation by the Public Service Commission relative to the Maintenance of Guard Rails on Platforms of Elevated and Subway Stations in the City of Boston.

To the Honorable the Senate and House of Representatives.

Chapter 31 of the Resolves of 1918 is as follows:—

Resolved, The Public Service Commission is hereby directed to investigate the advisability of constructing suitable guard rails for the protection of passengers at the elevated railway stations and in the subways under the control of the Boston Elevated Railway Company in the city of Boston, and shall report the result of its investigation and its recommendations, if any, to the next general court on or before the fifteenth day of January.

Under this resolve a public hearing was duly notified and held by the Commission, but no evidence of any public demand for the installation of such guard rails was disclosed.

The question of the advisability of installing guard rails on station platforms of the rapid transit lines of the Boston Elevated Railway Company has from time to time been investigated and considered by the Public Service Commission and its predecessor, the Board of Railroad Commissioners. When the plans for the equipment of the Tremont street subway, the first subway in Boston, were submitted for approval, the Board considered the advisability of requiring the installation of guard rails, but reached the conclusion that they would constitute an element of danger rather than a means of protection to the traveling public. When the elevated lines were first opened to public use, the subject was again considered in the light of the different conditions and methods of operation on such lines, but the same conclusion was reached. Again, in 1902, a special investigation and report on this matter was made to the Board by its consulting engineer, Mr. E. K. Turner. In his report, which was based upon close observation and study of operating conditions at subway and elevated stations of the Boston Elevated company and a wide knowledge of railroad and street railway matters acquired in the practice of his profession, and as the result of extensive travel, both in this country and abroad, Mr. Turner reached the following conclusion:—

In my opinion the company would not add to the safety of its passengers or employees by placing fences on station platforms, and would materially

lessen the promptness of movement now possible. On general principles the addition of any features not necessary complicates the operation of a railway and renders safe and prompt movement more difficult.

On April 12, 1911, the House of Representatives adopted an order requiring the Board of Railroad Commissioners "to investigate the means employed or that should be employed to protect from injury passengers at the stations of the Boston Elevated Railway Company, and especially to consider whether a railing or other form of protection is necessary to protect the passengers from falling into the pit at said stations." On June 1, 1911, the Board submitted its report, which was printed as House document No. 1953 of that year. This report contained detailed information in regard to the number of persons using the various subway and elevated stations during rush hours, the area and dimensions of platforms available for passengers and the number of platform attendants used to direct traffic at each station, the number of fatal and serious accidents, and the means employed in other cities for the protection of passengers in similar situations. As the result of the information obtained, the Board found that "in view of the experience here and elsewhere conditions in Boston are not such as to lead it to the conclusion that guard rails should be installed upon safety principles solely on the platforms at the subway, elevated and tunnel stations."

The information heretofore obtained, which has already been published or is available to the public in the files of the Commission, makes it unnecessary to review the subject in detail. As the result of former investigations, supplemented by a further investigation by the Inspection Department of the Commission in accordance with the provisions of the pending resolve, the facts and considerations which seem to be material in determining the advisability of installing guard rails on the platforms of elevated and subway stations may be summarized as follows: —

1. If any guard rails were installed it would be necessary to bring the cars to a stop with their doors opposite the openings in the guard rails provided for the ingress and egress of passengers. As the cars used in surface operation vary greatly in length, as some are provided with center entrances and the remainder with front and rear entrances, and as they are operated both as single and as two-car units, it would be impracticable in subways like the Tremont street and Boylston street subways, which are used for surface car operation, to space the openings in the guard rails so as to be available for use indiscriminately by cars of these various types.

2. In the case of stations on elevated lines and subways used for train operation this difficulty would not exist, and it would be practicable to install guard rails if it were thought desirable to do so. At such stations, also, there is apparently an additional element of danger because of the exposed third rail and the fact that the station platforms are constructed on the level of the car floors, leaving a "pit" or opening at the level of the tracks about $3\frac{1}{2}$ feet below.

3. The construction of station platforms at the level of the car floors is the usual practice in the case of ordinary steam railroad operation in Great Britain, France, Germany and other foreign countries, as well as in the case of overhead and underground railways, both in this country and abroad. Despite the fact that more adequate provision has, in general, been made for the protection of passengers in the operation of railroads and railways abroad, and that the percentage of accidents is lower than in this country, no attempt, so far as we can learn, has ever been made to install guard rails or similar devices at foreign railroad or street railway stations. The experiment has, however, been tried in this country on rapid transit lines in New York City and Chicago. In New York, guard rails originally installed at a number of stations on the elevated lines were removed because of the belief of the management that they increased the danger of accident. Guard rails were also at one time experimentally installed upon certain portions of the elevated lines in Chicago, but as seven or eight passengers were rolled between the platform and the cars during the first few weeks of operation, the rails were taken down.

4. At the present time, so far as we can learn, no stations on rapid transit lines are equipped with guard rails or any similar device, with the exception of four stations in New York City. Railings are installed on the platforms of the stations at Brooklyn bridge and Chambers street, which are terminal stations where there is heavy unloading in the morning and heavy loading at night, at Fourteenth street and formerly at the old Grand Central station, where the loading and unloading during rush hours is greatly increased by the transferring of passengers from local to express trains, and vice versa. At Brooklyn bridge there are six loading platforms. Here the railings are arranged so as to force passengers to approach the car entrances through passages, in order to prevent heavy crowding, and to increase the rate of loading of the trains. During the rush hours about 37,000 passengers per hour board the trains at this station. At Chambers

street there are two loading platforms, but railings are installed on a portion of one platform only, and at a point to guard the heavy flow of traffic coming down one of the stairways to the station. About 34,000 passengers per hour board the trains at this station during the evening rush period. At Fourteenth street railings are installed on the northbound platform only, which is a heavy loading platform. The total passengers boarding trains on this platform, together with the transfers between express and locals, would probably amount to about 80,000 during the day. At Grand Central station, on the northbound express platform, railings are installed to guide the passengers to the proper points of entrance to the cars and to prevent crowding around the entrances, which slows up the loading of the trains. The number of passengers using the express and local platform northbound amounts to approximately 50,000 passengers per hour during the evening rush period.

At these stations guard rails have been installed as a traffic device to facilitate the segregation of passengers boarding the cars from those leaving the cars, rather than as a safety device. In response to a recent inquiry addressed to the Public Service Commission of the First District of New York in regard to the installation of railings on station platforms, the acting chairman of the Commission advised us that "there are no stations in this city equipped with such railings for the primary purpose of preventing passengers from being crowded off of the platforms or against cars. . . . The question of equipping other stations with railings for the purpose of protecting passengers from being crowded off platforms has been considered at great length, and has not been found practicable. Trains for different destinations stop at different places, and as there are three entrances to a car, railings close to the edge of the platforms could not be used. Railings set back from the edge would cut down the space on the platforms and greatly increase the congestion."

As the four stations in New York where guard rails are provided are congested to a far greater degree than anything in Boston, and as traffic conditions here are more nearly comparable with those existing at other stations in New York where guard rails have been found unnecessary or impracticable, the Inspection Department of the Commission is of the opinion that the installation of guard rails as a traffic device at subway and elevated stations in Boston is not advisable. That question, however, is outside the scope of the order, which relates solely to the

advisability of installing guard rails as a safety device for the better "protection of passengers."

5. As pointed out by the Board of Railroad Commissioners in its report to the General Court of 1911, "the installation of guard rails would in itself introduce to some degree an element of danger by reason of their proximity to the cars, and also by tending to congest traffic in the spaces where the guard rail must of necessity be opened to move traffic." In this connection it may be observed that the resolve now under consideration was based upon House bill No. 737, on which a hearing was given by the joint committee on metropolitan affairs on February 13, 1918, and that the committee in reporting the resolve may have been influenced by the wide publicity given to a fatal accident which occurred at Park street station on February 8, 1918. As the result of an investigation of this accident by the Inspection Department of the Commission, it appeared that the passenger was waiting for a car near berth one at the southerly end of the Park street station where an iron fence about 15 feet long is located at the end of the platform and at a distance of about four feet from the track and two feet from the side of a car; that he was struck by the car and thrown against the fence, and on the rebound lost his balance and fell in front of the car; and that if the fence had not been there the fatality would probably have been avoided.

6. The record of accidents at stations on subway and elevated lines of the Boston Elevated Railway Company seems to indicate that, except in cases of suicide or mental derangement, the likelihood of injury being sustained by passengers falling or being pushed off of platforms into the pit is very remote.

7. Upon all the evidence available, the Commission is of the opinion that the installation of guard rails would not be likely to conduce to the greater safety of the traveling public, and that the addition of guard rails or other structures which would restrict the platform area and thus tend to impede the free movement of traffic and to produce congestion, would be likely to interfere with safe and efficient operation.

8. In so far as conditions at subway and elevated stations may involve any special element of danger, it is due to the possibility that station platforms may become so congested that the pressure of the crowd will force passengers off the station platforms. As, under such circumstances, guard rails with a series of openings for the loading and unloading of passengers would afford no real

security and might indeed introduce additional elements of danger, it would appear that the safety of passengers can best be promoted by reducing congestion on station platforms to a minimum. In order to bring this about the following measures are necessary: —

(a) Adequate platform area should be provided and undue concentration of traffic at particular stations should, so far as practicable, be avoided.

Considerable progress in this direction has been made since the report of the Board of Railroad Commissioners was made to the General Court in 1911. Additional stations and facilities have been added to the rapid transit system by reason of the construction of the Cambridge subway, Beacon Hill tunnel, Dorchester tunnel, Boylston street subway, East Cambridge extension and the East Boston tunnel extension. There have been several additions or improvements made to terminal facilities at Sullivan square, Forest Hills and Egleston square. At Sullivan square the addition of a surface car loop at the elevated level and a south-bound loading platform has helped to relieve the congestion in the main station, which will be further relieved in the near future by the opening of the Everett extension. At Forest Hills an additional surface platform was constructed on the lower level and a portion of Washington street relocated, thus providing better facilities for the transfer from elevated to surface lines. At Egleston square an entirely new terminal has been constructed, which has materially relieved the former congestion at Dudley street. Several lines of surface cars have been discontinued to Dudley street and transfer made at this point. Further relief at Dudley street has been afforded by the opening of the Dorchester tunnel to Andrew station and the direct connection by means of this tunnel with the South station from Cambridge and Park street and points to the west. At certain other stations, such as Dover street, Park street and Scollay square, the area of the platforms has been greatly enlarged.

(b) The equipment operated on rapid transit lines should be properly designed for the prompt loading and unloading of passengers, and cars and trains should be operated on a frequent headway.

The cars used for train operation by the Boston Elevated Company are in general well adapted for the prompt handling of traffic, especially those regularly used in the Cambridge and Dorchester subways, — which we believe are unexcelled in this

respect. The new center-entrance cars with multiple unit control which are operated in the East Boston tunnel, are fully up to the best standard of modern operating practice, and the Boylston street subway has reasonably modern equipment, but a large portion of the cars operated in the Tremont street subway are obsolete or semi-obsolete, and entirely unsuitable for the quick handling of traffic. Since 1911 the most important improvement in surface car equipment and operation on these lines has been the introduction of center-entrance trailer cars of modern type, and the operation of a limited-stop service, which results in a better distribution of traffic. About 250 additional cars, either of the multiple-unit or trailer type, have been ordered, and delivery should be made within a few months. Additional cars have also been ordered for use in train operation on the elevated lines and in the Washington tunnel and Cambridge subway. Delayed deliveries of these cars, together with other causes, have prevented the maximum train operation during rush hours. Through certain rearrangements of service, the management of the company has recently succeeded in providing a more frequent service between Sullivan square and Dudley street, and further improvements in service on all rapid transit lines may be anticipated when all the new cars are received and placed in operation. The number of cars already ordered is, however, wholly inadequate for present requirements, and a large number of additional cars should be obtained as soon as the revenues of the company permit, in order that it may be in a better position to meet the traffic demands on the various portions of its system, and to relieve the congestion at subway and elevated stations.

(c) Platform attendants should be provided to control and direct traffic and prevent the overcrowding of cars at terminals and other principal stations.

Probably no single feature of operation interferes to so great a degree with the prompt and efficient handling of traffic as the tendency to crowd cars to the limit of their capacity. In addition to the delay caused on the particular car or train at the station of maximum loading by passengers attempting to force themselves into the car aisles which are already crowded, similar delays are caused at succeeding stations when passengers attempt to alight, and succeeding cars or trains are prevented from maintaining their schedule. At such stations platform attendants are necessary to guide and control traffic and to see that a reasonable standard of maximum car loading is observed and that

“Car full” signs are more frequently displayed. This is especially important in view of the frequent interruptions to service which occur through accident or other cause, as the station platforms rapidly become congested and the rush of passengers to board cars when service is resumed is apt, unless properly controlled, to choke the car entrances, thus causing additional delay and great discomfort, if not physical injury, to passengers.

A comparison with the figures submitted by the Board of Railroad Commissioners in 1911 shows that the number of men employed in the operation of cars at stations on the subway and elevated lines which were then in use has since been decreased. On the lines used for train operation the reduction is comparatively slight and may be warranted by the improvements in station facilities which have already been mentioned. In the Tremont street subway and the East Boston tunnel, however, the number of station employees has been reduced by nearly one-half. We believe the management of the company might well consider whether so large a reduction is justified. Better instruction and supervision of platform attendants is also desirable, and they should not be required to perform other duties which may make it necessary for them to absent themselves from their posts. In the case of a serious interruption of service, station entrances should be closed or other means taken to exclude passengers before congestion on the station platforms becomes acute, and passengers should be advised of the probable delay in the resumption of service, so that they may, if they choose, attempt to reach their destination by another route. We believe that there is a rule of the company to this effect, but its more frequent enforcement is desirable.

Respectfully submitted,

FREDERICK J. MACLEOD,
JOSEPH B. EASTMAN,
EVERETT E. STONE,

JANUARY 23, 1919.

[House 1295]

Commissioners.

Report of the Public Service Commission on an Order of the House of Representatives relative to the Abolition of the Grade Crossing of the Boston and Maine Railroad at Moody Street in the City of Waltham.

To the Honorable the House of Representatives:

The following vote was adopted by the House of Representatives on April 4, 1919: —

Ordered, That the Public Service Commission is hereby directed to investigate the expediency of prompt and immediate action to effect the abolition of the grade crossing of the Boston and Maine railroad at Moody street in the city of Waltham. The Commission shall report its findings to the House of Representatives not later than the fifteenth day of May in the current year, with an estimate of the probable cost of such abolition.

Upon this order the Commission held a public hearing on May 5, 1919, and after investigation and consideration submits its report.

Moody street, which is one of the principal streets in the city of Waltham, crosses at grade the tracks of the Fitchburg division of the Boston and Maine railroad immediately west of the Waltham railroad station. On September 15, 1903, a petition of the mayor and aldermen of the city of Waltham was filed in the Superior Court of Middlesex County (Equity 1152) asking for the appointment of a commission for the elimination of the crossings at grade in that city, both on the main line and on the Watertown branch of the Fitchburg division. On March 14, 1904, a commission was appointed consisting of Arthur P. Rugg, William F. Dana and George F. Swain. The two members first named having resigned, the vacancies on the commission were filled on January 15, 1907, by the appointment of Arthur Lord and Patrick H. Cooney. By agreement of the parties in interest the proceeding was limited to a consideration of the abolition of the grade crossings on the main line only, namely, those at Main street, Elm street and Moody street. The commission, after holding several public hearings, filed its report on June 22, 1908.

That report provided for the elimination of the three crossings named by raising the grade of the railroad so as to pass over the streets with practically no change in the street grades. The estimated cost of this plan of elimination under prices then prevailing was \$907,169. This report was confirmed by a decree

of the Superior Court, but upon objections raised by the Commonwealth and the Newton Street Railway Company, this decree was subsequently reversed and set aside on June 27, 1910. On September 21 the same commissioners were reappointed and the case submitted anew.

After the recommitment of the case two other general plans, in addition to the plan provided for in the report of 1908, were presented to the Commission. One of these plans provided for raising the streets so as to go over the railroad tracks without change in the grade of the latter, and the other provided for carrying the streets over the tracks by both raising the streets and depressing the railroad tracks. Under date of February 27, 1913, the special commission wrote the Assistant Attorney-General that they had decided that the crossings at Moody, Elm and Main streets should be abolished under the general plan of raising the streets to pass over the tracks of the railroad at the existing grade of the latter. Since that date, Commissioner Cooney has died, the vacancy on the commission has not yet been filled, and as far as we are informed nothing further has been done and the case is still pending.

At the hearing the members of the grade crossing commission stated that they had delayed making any final report or disposition of the case, owing to the financial condition of the Boston and Maine Railroad, and the impracticability of having this work undertaken when all available capital and labor were needed for essential war work. They suggested that they were in doubt as to whether, under present conditions, they would be justified in making a finding that public necessity and convenience required the immediate prosecution of this undertaking, and stated that they contemplated recommending to the court that the case be dismissed for the present, and that further action be deferred until such time as conditions would warrant the expenditures necessary for the undertaking. They also agreed to confer with counsel in the case, and to proceed at once to file their report or otherwise dispose of the case upon the record.

The order of the House of Representatives, which is now under consideration, relates only to the Moody street grade crossing. The only method by which the separate elimination of that crossing can be effected is by elevating the street and leaving the tracks at their present grade. The cost of abolition under this plan, as estimated by the Engineering Department of the Commission, would amount to approximately \$638,000.

The Mayor and other representatives of the city, however, objected to this plan, and stated that the only method of abolition that would be satisfactory either to the Railroad or to the City, was that of elevating the railroad tracks substantially as proposed by the grade crossing commission in 1908. Under that plan the crossings at Elm street and Main street, owing to their proximity to Moody street, would also be necessarily involved, and the total cost under present prices would amount to \$2,160,000, of which the major part would fall upon the Boston and Maine Railroad.

Since the federal government has taken over the operation of the Boston and Maine railroad it has been obliged to make large cash advances in addition to the revenue received from operation, in order to take care of the needs of the road. The Director General of Railroads, in reply to a letter addressed to him by the Mayor of Waltham a short time ago, stated that the government was not in a position at this time to advance the money necessary for the abolition of this crossing, as he felt that expenditures for work of this character should be postponed until provision was made for the financing of other improvements which are vitally and immediately needed for efficient operation.

It is doubtful also if the Railroad Administration could consistently authorize the expenditure necessary for the abolition of this crossing, unless it was prepared to adopt a similar policy in the case of other grade crossings on the Boston and Maine system where proceedings for abolition have been initiated, but where the work has been postponed for similar reasons. The total cost of eliminating these crossings where the preliminary finding of public convenience and necessity has already been made, would amount, on the Boston and Maine system alone, to at least \$10,000,000. It is to be observed also that these estimates leave out of account all existing grade crossings where abolition might be desirable in the public interest, but where proceedings have not yet been begun. In 1916 there were 2,118 grade crossings in New England, of which 710 were in Massachusetts. At that time it was estimated that the cost of abolition of all such crossings in New England would amount to approximately \$77,000,000. Under present prices the cost would probably be nearly double that amount. If the federal administration now undertook to provide for needed grade crossing eliminations throughout the entire country the cost would be enormous.

The statute relative to the apportionment of the cost of abolishing grade crossings provides for payment by the railroad company of 65 per cent of the cost. Of the remaining 35 per cent a street railway company having a location over the crossing may, in the discretion of the grade crossing commission, be assessed to an amount not exceeding 15 per cent, the city or town in which the crossing is situated to an amount not exceeding 10 per cent, and the balance is to be assessed against the Commonwealth. Under this statute, the Middlesex and Boston Street Railway Company is a party to the grade crossing proceedings in the city of Waltham, but it would appear to be practically impossible for that company, in its present financial condition, to make any substantial contribution towards the cost of abolition. Under the plan for the elevation of the railroad tracks, which is the only plan which meets with the approval of the City of Waltham, the total cost, as already stated, would amount to \$2,160,000. The share of the railroad would be \$1,404,000, and the balance, amounting to \$756,000, would, as a practical matter, if the work were immediately undertaken, have to be borne almost wholly by the City of Waltham and the Commonwealth.

In view of the large cost involved, the Mayor of Waltham expressed the view that the abolition of this crossing was not of such pressing importance as to justify the expenditure at this time, and that it would be better to allow the whole matter to remain in abeyance, in the hope that the work could be done under more favorable conditions at some future time. This view was apparently concurred in by all the parties present at the hearing, and also represents the conclusion of the Commission. The Commission therefore begs to report that, in its opinion, "prompt and immediate action to effect the abolition of the grade crossing of the Boston and Maine railroad at Moody street, in the city of Waltham," would be inexpedient at this time. The Commission also reports that the probable cost of the abolition of the Moody street crossing under a plan for the elevation of the street and the retention of the present grade of the railroad would amount to approximately \$638,000, and that the cost of abolishing this crossing under a plan for the elevation of the railroad tracks over the street would cost approximately \$2,160,000.

FREDERICK J. MACLEOD,
EVERETT E. STONE,

MAY 15, 1919. [P. S. C. 2394]

Commissioners.

EXPENSES OF OFFICE.

EXPENDITURES FOR YEAR ENDED NOVEMBER 30, 1919.

Commissioners' salaries,	\$20,599 09
Secretaries' salaries,	10,525 00
Accounting Department,	10,245 00
Engineering Department,	12,094 26
Inspection Department,	33,386 72
Rate and Tariff Department,	5,145 00
Telephone and Telegraph Department,	10,023 93
Clerical assistance and messenger services,	8,237 56
Experts,	1,434 80
Office supplies and contingent expenses,	5,599 02
Printing and binding annual report,	15,436 28
Rent of office,	4,500 00
Stenographic reports of hearings,	2,765 88
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Total,	\$139,992 54
Reports of inquests,	\$2,334 76

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